

**ENVIRONMENT, LAND ACQUISITION AND PLANNING COMMITTEE
of the
SUFFOLK COUNTY LEGISLATURE**

Minutes

A regular meeting of the Environment, Land Acquisition and Planning Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on **September 10, 2002**.

MEMBERS PRESENT:

Legislator David Bishop - Chairperson
Legislator Michael J. Caracciolo - Vice Chairperson
Legislator Jon Cooper
Legislator Andrew Crecca
Legislator Ginny Fields

ALSO IN ATTENDANCE:

Paul Sabatino, II - Counsel to the Legislature
Erin Cohan - Aide to Legislator Bishop
Barbara LoMoriello - Aide to Legislator Cooper
Peter A. Scully - Commissioner of Parks Department
Nicole DeAngelo - County Executive's Office
Vito Minei - Department of Health Services
Amy Juchatz - Department of Health Services
Dominick Ninivaggi - Department of Public Works
Tom Isles - Director of Planning
Christine Costigan - Director of Real Estate
James Burke - Division of Real Estate
George M. Motz - Mayor of Quogue
Mary Wilson - Town of Southampton
Arthur R. Williams - Supervisor of Shelter Island
William T. Walter - Taxpayers to Save the Paumowok Bioenclave
Laurie Nolan - Deputy Supervisor, Town of Huntington
John McQueen - IDA Bond Counsel
Howard Pachman - IDA Counsel
Bruce Ferguson - Administrative Director, IDA
Peter Curry - Counsel for Camelot
Other interested parties

MINUTES TAKEN BY:

Ana Grande - Court Stenographer

(THE MEETING WAS CALLED TO ORDER AT 3:00 P.M.)

CHAIRMAN BISHOP:

We have a quorum of members present. Please rise for the Pledge of Allegiance to be led by Senator Crecca.

(SALUTATION)

CHAIRMAN BISHOP:

Welcome to the September 10th meeting of the Environment, Land Acquisition and Planning Committee. As always, we have a lengthy agenda and this committee tends to run late. We're further burdened by the handicap of starting late today, so it's going to be a lengthy afternoon, I'm afraid.

We have one issue -- excuse me. We have one issue in particular that I know was going to take up a great deal of time, which is the Camelot purchase, and I have a member of the committee, quite understandably, needs to leave early, that's Legislator Crecca. So I would like to go to the agenda except I have, excuse me, except I have a number of elected officials who are here who wish to talk about items that are on the agenda.

What I think we'll do is we'll skip over those on the assumption that they will prove non-controversial and we'll go to the agenda. So we're going to go to the agenda at this time. We will skip over 1827, we'll skip over the Camelot purchase and we will take the vector control amendment when that comes up and move that to the back, but before we go to those other issues, because Mr. Minei also has to leave. Everybody has to leave. Okay.

Resolution 1911. 1911. Appropriating Greenways infrastructure improvements fund grant for Miller Place property in the Town of Brookhaven. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Haley)

CHAIRMAN BISHOP:

Appropriating Greenways infrastructure improvements grants for Miller Place. Motion to table by myself.

LEG. CARACCILOLO:

Second.

CHAIRMAN BISHOP:

Second by Legislator Caracciolo. All in favor? Opposed?
(VOTE: 4 -0-0-1) (Absent: Cooper) TABLED

1912. Approving acquisition under Suffolk County Land Preservation

Partnership Program (Ridgehaven Estates LLC Property) Town of Brookhaven. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Haley)

CHAIRMAN BISHOP:

1912 is approving acquisition under Suffolk Land Partnership Preservation Program, Ridgehaven Estates. It's my information that that too is not ripe. Motion to table by myself, second by Legislator

2

Caracciolo. (VOTE: 4-0-0-1) (Absent: Cooper) TABLED

1913. Approving acquisition under Suffolk County Multifaceted Land Preservation Program for Stage II Active Parklands (property in Ridge) Town of Brookhaven. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Haley)

CHAIRMAN BISHOP:

1913 is approving acquisitions under the Multifaceted Land Preservation Program, Stage II Active Parklands, Property in Ridge, Town of Brookhaven. Give me a moment and I'll check.

This has to be tabled for review by the Budget Review Committee. Motion to table by myself, second by Legislator Crecca. All in favor? Opposed? (VOTE: 4-0-0-1) (Absent: Cooper) TABLED

1917 is authorizing planning steps for the acquisition of land and the pay-as-you-go 1/4% program. Land on Granny Road, Town of Brookhaven. This is planning steps only. Is there a motion? I'll make a motion to table.

LEG. CARACCILOLO:
Second.

CHAIRMAN BISHOP:

Second by Legislator Caracciolo. (VOTE: 4-0-0-1) (Absent: Cooper) TABLED

1922. Appropriating Greenways infrastructure improvements fund grant for Bay Village Park property, Village of Amityville in the Town of Babylon. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Bishop)

CHAIRMAN BISHOP:

1922 is approving Greenways infrastructure for Bay Village property, Village of Amityville. I'll make a motion to approve.

LEG. CRECCA:

Second.

CHAIRMAN BISHOP:

We should have back-up showing that the Village has spent more than ninety-five thousand dollars. Motion to approve by myself, second by Legislator Crecca. All in favor? Approved. (VOTE: 4-0-0-1) (Absent: Cooper) APPROVED

1958. Authorizing the acquisition of development rights to farmlands by the County of Suffolk, Phase V [Omnibus 2002 (2)]. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (County Executive)

CHAIRMAN BISHOP:

1958 is authorizing the acquisition of development rights to farmlands by the County of Suffolk, Phase Five. It's a County Executive bill.

3

LEG. CARACCIOLO:

Co-sponsor.

CHAIRMAN BISHOP:

Is there anybody here from the Executive to speak on this?

MR. ISLES:

My name is Thomas Isles. This is a Phase Five of the Farmland Development Rights Acquisition Program. The resolution before you would authorize parcels that have been, all been reviewed by the Farmland Committee, most of which were done at their meeting on July 30th. From this we would then officially contact the property owners and begin the process of negotiating and appraising for possible inclusion in the County PDR Program, Purchase and Development Rights.

CHAIRMAN BISHOP:

Okay.

LEG. CARACCIOLO:

Thank you. Tom, of the properties identified in the attachment, have any of these property owners responded favorably to our survey?

MR. ISLES:

Many of the parcels that are before you today are the result of that survey that was done in the Town of Riverhead. A few of them are not, but most of them come from that inquiry that was done with using the Town of Riverhead as well as the County of Suffolk to contact those farm owners and identify if they would be interested in the program.

LEG. CARACCIOLO:

And what is the total amount of acreage involved here?

MS. COSTIGAN:

It's twelve hundred and seventy-six.

LEG. CARACCIOLO:

I'm sorry, Christine?

MS. COSTIGAN:

At twelve hundred seventy-six. Christine Costigan.

LEG. CARACCIOLO:

Okay. Thanks.

CHAIRMAN BISHOP:

Which -- when we, when we approve this resolution, which farmland preservation program are we designating these purchase be made out of?

MR. ISLES:

This would be for the acquisition. To authorize it, what would have to happen in terms of the dollar amount would be an appropriation, I think -- I would anticipate that most of these would come from the Quarter Percent Program with the set aside for farmland acquisition.

4

CHAIRMAN BISHOP:

So this is a blanket authorization to the administration to go forth and buy the development rights?

MR. ISLES:

Right.

CHAIRMAN BISHOP:

Then when you make a specific deal with a farmer, it comes back to the Legislature for a subsequent vote?

MR. ISLES:

Right. Now, we may come back either individually, but often times --

CHAIRMAN BISHOP:

With an omnibus.

MR. ISLES:

-- it can be done as a bulk and we would identify the parcels that we have deals on. All of the acquisitions, of course, would be subject to Resolution 425-2002, and there are certain thresholds whereby there's direct case-by-case review by the Legislature also required.

CHAIRMAN BISHOP:

Okay. And you're aware of this Legislature's suggestion, guidance,

that it come from the Greenways Program, that we exhaust that?

MR. ISLES:
Right.

LEG. CARACCIOLO:
One of the properties identified in the exhibit is the Keyspan property, which there has been filed a plan and steps resolution.

MR. ISLES:
Right.

LEG. CARACCIOLO:
Have we completed that appraisal?

MR. ISLES:
I don't believe we have.

MS. COSTIGAN:
Yes. We do -- it came in just, as a matter of fact, on Friday. The Keyspan appraisal is now under review.

LEG. CARACCIOLO:
And does that include the acquisition of the entire property by the County or is that considering the State/County, joint acquisition?

MS. COSTIGAN:
That's a, that's a blanket appraisal of the property for its highest and best use as posited by the appraiser.

5

LEG. CARACCIOLO:
Okay. Thank you.

CHAIRMAN BISHOP:
Okay. Motion to approve by Legislator Caracciolo, who wishes to be listed as a co-sponsor, second by myself. All in favor? Opposed? Resolution is approved. (VOTE: 4-0-0-1) (Absent: Cooper) APPROVED

1980. To authorize lease of active parkland property at Trinity Cemetery, New Highway, North Amityville, Town of Babylon, from Most Holy Trinity Roman Catholic Church. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Bishop)

CHAIRMAN BISHOP:
1980 is lease under the Greenways in Trinity Cemetery, North Amityville. My resolution. I have to table it for one more meeting. Motion to table by myself, second by Legislator Fields. All in favor?

Opposed? (VOTE: 4-0-0-1)(Absent: Cooper) TABLED

CHAIRMAN BISHOP:

1983 is authorizing planning steps for acquisition under the Suffolk County Multifaceted Preservation Program. Property at Naim at Bayport, Town of Islip. Explanation, here.

MR. ISLES:

We have maps.

LEG. CRECCA:

Does anyone know why this was tabled in the past?

MR. ISLES:

I don't think this was tabled, I think it's a new resolution.

LEG. CRECCA:

What's that?

MR. ISLES:

I think it's a new resolution, sir.

LEG. CRECCA:

I'm sorry, yes.

MR. ISLES:

This is a parcel of about 1.1 acres in Bayport on Montauk Highway. It's a parcel that was previously occupied as a supermarket or small grocery store. It is a vacant building now and vacant parking behind it.

The proposals have been submitted by Legislator Lindsay. We're not certain exactly what the proposal entails other than it's our understanding that the proposal would be under the Greenways Act of parkland program for the purpose of using the building as a community center.

CHAIRMAN BISHOP:

Oh, I see.

MR. ISLES:

We're not certain at this point if that is considered active recreation, but that's what we understand the proposal to consist of.

CHAIRMAN BISHOP:

It's planning steps only and to culminate this deal, you would need a local partner.

MR. ISLES:

Yes.

CHAIRMAN BISHOP:

And we do that at the next stage on these Greenways Active Recreations, so --

LEG. CRECCA:

Motion to approve.

CHAIRMAN BISHOP:

-- while we might be troubled by the ultimate outcome, this is not the time to raise that. Motion to approve by Legislator Crecca. Second by myself. Do you wish to be heard?

LEG. CARACCIOLO:

Abstain.

CHAIRMAN BISHOP:

All in favor? Abstentions? Legislator Caracciolo abstained.
(VOTE: 3-0-1-1) (Abstain: Caracciolo) (Absent: Cooper) APPROVED

1986. Authorizing planning steps for the acquisition of farmland under pay-as-you-go 1/4% Taxpayer Protection Program (land of Carman at Sound Avenue, Town of Riverhead.) ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING) (Caracciolo)

CHAIRMAN BISHOP:

Okay. 1986 is authorizing planning steps for the acquisition of farmland under pay-as-you-go Taxpayer Protection Program. Land of Carman at Sound Avenue, Town of Riverhead. I'm sure your moral qualms are not here.

LEG. CARACCIOLO:

No. This is a piece of -- well, Tom, could you just please summarize what the property --

MR. ISLES:

It's a parcel of about ninety-one acres that extends from Sound Avenue north to Long Island Sound, the bluff area and so forth. About nineteen or twenty acres of the property from what we understand is used for active farming. The bounds is apparently from what we understand wooded.

The farm portion would be, has not been reviewed by the Farm Committee. I did speak to our staff member who does that review for the Farm Committee and it would appear to merit acquisition on that. But here again we'd have to bring it to the Farm Committee at their

next meeting.

So of the nineteen or twenty acres, there would appear to be, to fit the program, the portion that's not farmland would not appear to fit the program. Maybe some other program perhaps.

LEG. CARACCIOLO:

That would be fine. We'll table it to --

CHAIRMAN BISHOP:

Motion to table.

LEG. CARACCIOLO:

-- that committee meeting.

CHAIRMAN BISHOP:

All in favor? Opposed? (VOTE: 4-0-0-1) (Absent: Cooper) TABLED

1882. Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program (Quogue Wetlands, Rich property, Village of Quogue, Town of Southampton.) ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (County Executive)

1887. Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program (Quogue Wetlands, Greeff property, Village of Quogue, Town of Southampton.) ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (County Executive)

CHAIRMAN BISHOP:

All right. The Mayor -- thank you. The Mayor of -- I have the Supervisor of Shelter Island and the Mayor of Quogue on different resolutions. Quogue, excuse me. Mayor Motz, are you here?

MR. MOTZ:

Yes, I am. George M. Motz. Ready?

CHAIRMAN BISHOP:

Ready, your Honor.

MR. MOTZ:

Okay. I have been Mayor of Quogue for two and a half months, this is a new experience for me, but I've lived in Quogue for fifty years. And a lot has changed in Quogue as it has in Suffolk County as we know and the only thing that hasn't really changed too much in Quogue is the wetlands, which we think is very important to preserve.

Thanks to the County, the Town of Southampton, 34.6 acres of wetlands have been preserved on Shinnecock Bay. 11.5 acres to the west of the proposed acquisition, 17.5 acres to the east of the proposed

acquisition, 1.6 acres to the south. That comes out to 30.6 acres plus four acres a little bit further to the east. The proposed acquisition is 16.1 acres, which would give us 46.7 continuous acres.

The reason why we think this is an important benefit basically to the community, aesthetic beauty obviously, it's a wonderful look going across from Quogue, East Quogue, Hampton Bays or riding down through

8

Shinnecock Bay or down Dune Road, but more importantly, an important landing area for migratory birds and a necessary water purification filtration system for Shinnecock Bay.

So for those reasons, we hope that we proceed ahead on the proposal. Do you have comments for me?

MS. WILSON:

Yes. Good afternoon. Mary Wilson, Community Preservation Fund Manager for the Town of Southampton. I'd just like to add that Suffolk County has consistently recognized the need to protect our wetlands and barrier islands as evidenced by the partnership purchase you did with the Village and the Town on the fifteen acre piece, Richmond piece --

LEG. CRECCA:

Can you pull the microphone closer?

MS. WILSON:

-- on the fifteen acre Richmond piece, which is east of this. It all creates a very large assemblage. We're currently working on acquiring a two hundred acre wetland piece, which would complement this to the further east. I can show you here on the map how this all links together. It's a very important assemblage to pick up as much as possible property on the fragile wetlands.

The County's willingness to partner in these two acquisitions helps the Town leverage its community preservation funds, allowing the Town's funds to go further in this very active real estate market, and we'd appreciate your support on those two acquisitions.

CHAIRMAN BISHOP:

These acquisitions are fifty percent matched locally?

MS. WILSON:

Yes.

CHAIRMAN BISHOP:

By the Village?

MS. WILSON:
By the Town.

MR. MOTZ:
By the Town.

CHAIRMAN BISHOP:
By the Town. Okay.

MS. WILSON:
Using community preservation fund dollars. If I may --
if I may, the dark green shows you what's already preserved.

CHAIRMAN BISHOP:
Thank you. Do you have any questions for the Village officials? I want
to hear from our County officials.

9

LEG. FIELDS:
Can I ask why you didn't choose to purchase it completely without a
partnership and I think based on the fact that I think a town official
owns the property?

MS. WILSON:
To my knowledge, a Town official does not own the property. If you can
clarify which property, maybe I can speak more directly to it.

CHAIRMAN BISHOP:
Who is the owner, who are the owners?

LEG. FIELDS:
Who are the owners of the property?

MR. MOTZ:
The Greeff family is one owner. They're not Town officials, to my
knowledge.

CHAIRMAN BISHOP:
Or Village officials?

MR. MOTZ:
No, no.

CHAIRMAN BISHOP:
Okay.

MS. WILSON:
Peter and Christopher Greeff live in Pennsylvania.

MR. MOTZ:

Right. And the other one is basically the Rich property, they're not Town officials either.

MR. SABATINO:

According to the back-up, one of the owners is a trustee of the Town of Southampton, somebody named Greeff. That's in the back-up.

MR. MOTZ:

I'm not aware of that.

MS. WILSON:

I don't believe there's a trustee of that name currently serving. I don't believe there's a trustee currently serving of the name Greeff.

MR. MOTZ:

I'm sure there's not, actually.

CHAIRMAN BISHOP:

Okay. Well, he'll check that.

MR. MOTZ:

Okay.

10

CHAIRMAN BISHOP:

Thank you very much.

MR. MOTZ:

Thank you.

CHAIRMAN BISHOP:

There are no further questions. I appreciate it.

Can we ask the Planning Department to come forward and just tell us about this. Director of Real Estate as well.

MR. ISLES:

Tom Isles. These parcels were discussed briefly at the last meeting. They are bay frontage parcels along the barrier beach in the Town of Southampton. There are other holdings in this area by the County of Suffolk as well as by the Town and the Village, and the idea behind this would be to start to form a network of protected wetlands and open space.

The parcels were ranked according to the criteria utilized by the Legislature and both parcels achieved a ranking of forty-five. The scale on that is from zero to a hundred, with twenty-five typically being the recommended minimum threshold.

I believe we had aerial photographs we circulated at the last meeting. We have extras here.

MS. COSTIGAN:

Mr. Bishop, I'm sorry. Mr. Greeff is not a trustee, he's the trustee of the Greeff family trust.

CHAIRMAN BISHOP:

Oh.

LEG. FIELDS:

Thank you.

CHAIRMAN BISHOP:

Did we --

LEG. FIELDS:

Okay. It just says, Peter Greeff, Trustee, as the owner of 3.9 acre parcel of land located on the north side of Dune Road in the Village of Quogue.

CHAIRMAN BISHOP:

Fifteen acres on Dune Road I assume is quite expensive, is it not? Do we have any --

MR. MOTZ:

We don't have an appraisal from the County, however, I believe the Town ordered an appraisal when they started looking at this. I don't know the exact amount, but perhaps they, if you want, they can testify to that.

CHAIRMAN BISHOP:

Can you give me a ballpark?

11

MR. ISLES:

I think the general point in terms of obviously this is prime real estate is noted, parts of the property are wetlands, so there would be some restrictions on development, but here again I think we have a ballpark of I think on the larger piece of, this is not for quotations, this is not based on a County appraisal, of somewhere in the range of the upper -- close to two million I think is what the number is. And half of that would be then the County.

CHAIRMAN BISHOP:

Right. Two million an acre or two million --

MR. ISLES:

No for the total piece.

CHAIRMAN BISHOP:

The total.

MR. ISLES:

Yes, yes. That's my understanding.

CHAIRMAN BISHOP:

All right. Any further questions?

MR. MOTZ:

Can I add one comment for a moment?

CHAIRMAN BISHOP:

Sure, Mayor.

MR. MOTZ:

The main concern we had on the properties, they are adjoining properties, and the indication was that there probably were some buildable lots on separate pieces of property, but if you combine them, which was the thought that the families might do, you end up with a number of buildable lots on the two pieces of property because of the configuration of the properties. That's what one of our main concerns is, that you end up with a development in the middle of this wetlands.

CHAIRMAN BISHOP:

Just a question. The Village has taken no discretionary actions which increase the value of the property up to this point?

MR. MOTZ:

That's right.

CHAIRMAN BISHOP:

Okay. Thank you.

LEG. CRECCA:

Should I make a motion now?

CHAIRMAN BISHOP:

No. Then I have, the Supervisor of Shelter Island is here.

12

MR. WILLIAMS:

My name is Art Williams. I'm Supervisor of the Town of Shelter Island. Mr. Chairman and members of the Committee, thanks very much for giving me an opportunity to talk to you this afternoon.

I'd like to just address Intro. Resolution 1827, which regards about eight acres of, eight acre, two parcels comprising eight acres which is currently owned by the Passionate Monastery of the Lady of the Isle.

It's a Passionist community which is part of the Catholic Church.

The property borders Burns Road and Cartwright Road and is adjacent to a significant number of acres, approximately thirty-eight acres that is owned by the State of New York. And across the street there's forty acres, which is a single parcel that's owned by a private individual, however, not preserved.

The zone is A Zone, which is -- C Zone, rather, which is one-acre zoned and we think based upon the road frontage, it's conceivable eight homes could be developed on this property. While the -- while the property itself is not centrally over our aquifer, we do consider it to be rather important, because it is in our near shore overlay district and we're looking, because as you may know approximately ninety percent of our homes on Shelter Island are private wells and septic systems, the near shore overlay areas is the most sensitive in our aquifer and we're looking to preserve as much area and reduce as much density as possible in that area.

The appraisal, we've received two appraisals.

LEG. CARACCIOLO:

We don't want to know those numbers.

MR. WILLIAMS:

Fine, thank you. That's, that pretty much describes the property. If you have any questions, I'm happy to answer them.

LEG. CARACCIOLO:

I'll follow suit with the question that the Chairman raised with the previous speakers, and that was in terms of the Town. In this case, has the Town taken any discretionary actions to increase the value of this property?

MR. WILLIAMS:

Not that I'm aware of, no, no, not at all.

LEG. CARACCIOLO:

So at this point what's before the Town as far as possible development?

MR. WILLIAMS:

As I understand it, the Saint Gabriel's has submitted to the Planning Board a subdivision for four parcels to be developed in the eight acres. However, once they realized that there might be a park fee involved, they are now revisiting a major subdivision, so they might try to maximize that subdivision as far as I know.

LEG. CARACCIOLO:

What is the zoning in this property?

MR. WILLIAMS:

This is C Zone, it's one-acre zone.

LEG. CARACCIOLO:

One acre?

MR. WILLIAMS:

Yes, it is.

LEG. CARACCIOLO:

So with road improvements, road runoff, sumps and so forth, do you believe this property would yield eight lots?

MR. WILLIAMS:

It's conceivable, because the whole property, one property is on -- one parcel is on the corner of, one acre is on the corner of Cartwright and Burns and the rest of the property is, runs along Burns Road and it's conceivable one-acre strips could be carved up.

Unfortunately, Shelter Island, we don't have very sophisticated reproduction equipment, we actually used a photocopier. I would be happy to pass this around if you all would like to look at it, but I think you can, it's conceivable that, that this lot, this parcel, these two parcels could yield a maximum, a maximum number of homes.

LEG. CARACCIOLO:

This would be purchased under the -- would be successful under the Multifaceted Program.

MR. WILLIAMS:

That's my understanding.

LEG. CARACCIOLO:

Land partnership.

MR. WILLIAMS:

Yes.

LEG. CARACCIOLO:

And the Town's contribution would be?

MR. WILLIAMS:

Fifty percent.

LEG. CARACCIOLO:

Okay. Mr. Isles, last month when this resolution was before the committee you had indicated that it had ranked rather low in terms of the County's criteria for acquisition. Could you just elaborate?

MR. ISLES:

Yes. Under the ratings system used by the Legislature, which is a County-wide rating system, of course, we did rank this parcel and it came in at around ten, maybe pushing fifteen depending on development pressure

14

and so forth. So it didn't rate very high considering the scale of zero to a hundred.

One of the things I did do since the meeting is one unique aspect of Shelter Island is this particular groundwater situation and the Suffolk County Health Department has been doing extensive work in terms of groundwater testing and monitoring and so forth, so I have sent correspondence to the Health Department to ask for their comments on this. And that went out maybe a week or so ago, so to give them an opportunity to weigh in on it.

So under the standard criteria, it came in at kind of a moderate evaluation. What I'm seeking is that if there's anything unique in terms of the special circumstances, the groundwater and the near shore conditions that might warrant evaluation by you as this committee, either better or worse as far as the acquisition is concerned, to have that available for you.

LEG. CARACCIOLO:

Okay. I'm looking at our criteria rated form.

MR. ISLES:

Yes.

LEG. CARACCIOLO:

Could you just share with us how this particular acquisition rated based on the seven or eight criteria?

MR. ISLES:

Okay. The first category, and I'll try to do this briefly, is in terms of, I don't have the specific form in front of me, but I'll try to match it to what my recollection of it was. Here we go. Okay, thank you. The parcel would rate on Category C of the evaluation about five points for having a location abutting or adjacent to other protected land. That's parcel, the parcel adjacent to this is owned by New York State DEC. It is wetlands, so it would qualify for that.

A second category would be the use of an intermunicipal agreement. Here again, the Town Supervisor has indicated that The Town would agree to a fifty percent participation, therefore, that would warrant five points. And then based on the conversation today or the testimony today that there is at least an initiation of a subdivision application, potentially

they can pick up another five points for a, pardon me, ten points for preliminary development plans. So the range here could be ten points as a minimum and upwards of twenty points based on the tentative plans being filed.

In terms of the other categories, however, of special habitat or special groundwater protection area, size or shape, the County tends to encourage purchases of larger parcels. This parcel as we indicated is about eight acres in area, so there's no extra points given for that.

LEG. CARACCIOLO:

So that would bring us to a total of how much?

15

MR. ISLES:

Well, based on the testimony today about pending the application of the Planning Board, it could reach a point of twenty.

LEG. CARACCIOLO:

Twenty. Minimum score necessary for consideration of acquisition is twenty-five.

MR. ISLES:

Right.

LEG. CARACCIOLO:

So it would not qualify under this program. I think in the interest of everybody's time, if that's the case, and as sponsor of this resolution, I think the only alternative before us would be to consider acquisition under another program.

But my question to Supervisor Williams would be the Town, like just about every other town in the County, probably has some unmet athletic field need and we could consider an acquisition under that program, but that would require a partnership with the Town wherein the Town or a third party would make the land improvements for the ballfields. The County would purchase the property if we had a willing seller, appraisal, we had all of our normal requirements and the Town agreed to develop and maintain the property as an athletic facility for use by any County resident. So that may be something you want to bring back to the Town Board as a possible alternative.

I'll make a motion to table, Mr. Chairman.

CHAIRMAN BISHOP:

Mayor, Supervisor, rather.

MR. WILLIAMS:

May I ask a question?

CHAIRMAN BISHOP:

Yes.

MR. WILLIAMS:

Just under that program, Legislator Caracciolo, what would the County's participation be?

CHAIRMAN BISHOP:

We buy it a hundred percent.

LEG. CARACCIOLO:

We purchase the land and you develop and maintain it.

MR. WILLIAMS:

I see.

LEG. CARACCIOLO:

And one of the things I am a stickler about, as Mr. Isles and Mr. Scully will tell you, the agreement that I would want to see in effect is that the town would develop this property in no more than six months for

16

athletic fields.

MR. WILLIAMS:

Six months?

LEG. CARACCIOLO:

Oh, yeah. Southold, we're on our way. We're on our way.

MR. WILLIAMS:

Thank you very much.

LEG. CARACCIOLO:

Okay.

CHAIRMAN BISHOP:

Okay. Thank you. There was a motion to table. First, motion to take it out of order, second by myself. All in favor? Opposed?

Why don't we also take -- Legislator Crecca is gone? He stepped out. Then we won't take it out of order.

The other issue, two other issues remain that have discussion components to them. One is the vector control resolution affecting vector control about the no-spray list expansion, Legislator Guldi's resolution. And the other is, of course, the Camelot purchase. Oh, you're back.

Why don't we take Resolution 1882 and 1887 out of order. Motion by myself, second by Legislator Fields. All in favor? Opposed? Those two resolutions, which we have already discussed, are now before us. This is the property in Quogue. Motion to approve by myself, second by, is there a second?

LEG. CRECCA:
Second.

CHAIRMAN BISHOP:
Legislator Crecca. All in favor? Opposed? (VOTE: 4-0-1-0)
(Abstain: Caracciolo) APPROVED

CHAIRMAN BISHOP:
1887. Motion to approve by myself, second by Legislator Crecca. All in favor? Opposed? (VOTE: 4-0-1-0) (Abstain: Caracciolo) APPROVED

LEG. CARACCIOLO:
Abstain.

CHAIRMAN BISHOP:
On both?

LEG. CARACCIOLO:
On both.

CHAIRMAN BISHOP:
Legislator Caracciolo abstains on both.

Okay. I want to do the vector control no-spray list policy.

17

1865. To expand scope of coverage of "no-spray" list to include all chemicals. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING. (Guldi)

CHAIRMAN BISHOP:
1865. This is Legislator Guldi's resolution to change the no-spray list standard Resolution 482 of 2001 from just Altocid, Altocid plus any chemical larvicide, because people are complaining that they can't get on a no-spray list for pesticide applications that they feel threatened by. That's according to Legislator Guldi.

I assume you're here to oppose it. How can we do this in its most pithy form?

MR. MINEI:
I have a suggestion for you, Dave.

CHAIRMAN BISHOP:

Yes.

MR. MINEI:

At the end of the last ELAP Committee, at the end of the last committee, at the end of the last committee, you had indicated that you were going to invite Dominick, so you might want to get a little background on the program. Dominick Ninivaggi, the Superintendent of vector control is here.

CHAIRMAN BISHOP:

Yes, no, I see he is here.

MR. MINEI:

Scott, Dr. Scott Campbell from the Health Department here, our entomologist is here, he can give a little bit of the health overview. And then if you would just indulge me for a moment, I would like to give the Health Department's position regarding the initiative.

CHAIRMAN BISHOP:

Okay.

MR. NINIVAGGI:

Dominick Ninivaggi here, Vector Control Superintendent. Thank you for inviting me and giving me an opportunity to speak on this.

As you know, your County has a no-spray list law as well as a public notification law and in both cases our larvicides were exempted from those laws after due consideration because the Legislature realized the practical difficulties associated with, with the public notification as well as putting the no-spray list on that. In addition they recognized that there was not a need to have a no-spray list for larviciding.

And back when those bills and those laws were passed, it was recognized that there was little, if any, hazard to human beings associated with larvicides, and it was also recognized that the larvicides are an essential part of our program both in terms of effectiveness and in terms of our environmental profile.

The use of larvicides are a preventative approach. It reduces the need

18

for the use of more toxic materials. In particular, larvicides are applied to water away from people so human exposure is minimal, if any, while adulticides are applied in residential areas.

CHAIRMAN BISHOP:

So we're covering adulticides under the current law.

MR. NINIVAGGI:

Adulticides. This is all new, larvicides --

CHAIRMAN BISHOP:

And Legislator Guldi is proposing to extend the coverage to larvicides as well, larvicides go after --

MR. NINIVAGGI:

The mosquito larvae that are in the water.

CHAIRMAN BISHOP:

Right.

MR. NINIVAGGI:

It appears that this is only directed toward one of the larvicides we use, which is Altocid, that's a trade name for Methoprene. Operationally I need to point out that the introduction of Methoprene into the program had a tremendous effect in improving not only our effectiveness, but in reducing the environmental impacts of the program.

By reducing the need to treat for adult mosquitos, we reduce non-target impacts and we reduce mosquito numbers dramatically. We reduce the need for the adulticide spraying, which I think we all agree should be the last resort for, for mosquito control.

If we were prevented from using Methoprene in certain properties, particularly salt marshes, we have ten years of experience using only bacterials in situations, and I can guarantee you from that ten years of experience as a program, that mosquitos will not be effectively controlled. Mosquitos will fly out of the wetland. They will infest the neighboring areas and they will cause the need to use adulticides.

So we've made tremendous progress in improving the effect of the environmental profile of this program and this would be a decided step backward in terms of allowing mosquitos to breed, to fly out of areas and again causing a lot of problems for people very much unnecessarily.

I bring to you the operational point of view on this. I'll let the Health Department speak to environmental issues and to human health impacts of these materials.

I think we should also keep in mind that mosquito breeding is considered a public health nuisance under both County and State law and residents are actually required to do things like eliminate standing water and eliminate mosquito breeding, because we recognize that the property owner has an important role in controlling mosquitos. Again, this would be a decided step backwards in that we're telling people to do things like empty out flowerpots and birdbaths, but we're telling people it's okay to degrade the effectiveness of the program in, for example, a major salt

marsh. So this really contradicts everything we've been trying to do in the program for the last few years.

And again, mosquitos, you would also then have a situation where if a property owner put themselves on the no-spray list and the property turned out mosquitos, would they then be in violation of these public health laws for harboring a nuisance infestation. So in that respect, the law I don't think has been very well thought out.

So that's my perspective from an operational point of view and in terms of trying to deliver the most environmentally sound program.

CHAIRMAN BISHOP:

From an operational point of view, what is the distinction between this proposal and the current law?

MR. NINIVAGGI:

The current law effects only aduaticides.

CHAIRMAN BISHOP:

Yeah.

MR. NINIVAGGI:

And if a small area is exempted from aduaticiding, it doesn't have a major environmental or operational impact compared to exempting a breeding site, because a one-acre breeding site, if it gets away, can infest hundreds and hundreds of acres of adjacent residential properties, while if we skip over a one-acre site for aduaticiding, if there are only a few of them, it doesn't make that big of a difference in the overall scheme of things. So the control of the mosquitos, while they're concentrated and while they're vulnerable in the breeding sites, is the foundation of the program.

CHAIRMAN BISHOP:

So that the, the succinct answer, if I may, is that it would prevent you from accessing breeding grounds?

MR. NINIVAGGI:

It would prevent us from effectively, while we do use bacterial products which would not be covered by this, bacterial products can't always do the job in all situations. So we would find ourselves with situations where we were unable to effectively control the breeding and, needless to say, the mosquitos would not stay on the property of the person who put them on the no-spray list. We know that from a very bitter experience with federal properties.

CHAIRMAN BISHOP:

Okay. Legislator Fields.

LEG. FIELDS:

I don't know, Dominick, if you would be the one to answer this or Vito, but Methoprene or Altocid, what hazards do they pose to the environment, to invertebrates, any other living, breathing animal other than humans?

MR. NINIVAGGI:

I think I'll let Health Services answer these question.

20

MR. MINEI:

We can get to that in a moment, Ginny, it's part of our presentation. I thought maybe you'd just want to go operational, hear the County's role in the program and then we can get to our position on it and I'll directly answer your question.

CHAIRMAN BISHOP:

I agree.

LEG. FIELDS:

Okay.

CHAIRMAN BISHOP:

Next.

DR. CAMPBELL:

Thank you and good afternoon. Dr. Scott Campbell. I'm the Director of the Health Services Arthropod Borne Diseases Laboratory and I basically, I'm in charge of conducting surveillance along with my staff for arthropod borne diseases, West Nile Virus and Eastern Equine Encephalitis. I also, with the help of Dr. Bradley, our Commissioner, and Dr. Graham, the Director of Public Health, help direct the spraying for vector control.

I'd like to say that the larvicides that are being used are naturally occurring organisms or compounds, and Vito will get into that a little more. A marsh can produce an undetermined amount of mosquitos, you know, tens, ten thousand, a hundred thousand in number or more. And they can fly up to ten to twenty, twenty-five miles from that source. So as Dominick said, it's very important that those mosquitos are stopped at the breeding grounds and at the source.

Allowing a marsh to breed or a wetland to breed can increase the public health risk of that area and surrounding areas to those mosquito borne diseases, West Nile Virus and Eastern Equine Encephalitis. Also, allowing these areas to breed, it is no different from a tire pile or an unmaintained swimming pool, any kind of standing water, which again is contradictory to the County's position and campaign to dump the water.

In areas where there are, there is no larviciding, where you have the

decreased larviciding, it increases the need to adulticide, which again is just bad policy. And so allowing these mosquitos to breed is poor public health policy.

CHAIRMAN BISHOP:

Thank you. Legislator Field has a question.

LEG. FIELDS:

We're talking about tires and birdbaths with fresh water and we're talking about saltwater, the marsh in a wetlands. Have --

CHAIRMAN BISHOP:

It doesn't work on like twenty different levels, you know, I'm sorry.

LEG. FIELDS:

I'm just asking, the mosquitos that are breeding in the marshes and in

21

the wetlands or, I guess they're both the same, are these, have these been proven now that they are the carriers of the two diseases that you have just presented to us?

DR. CAMPBELL:

Both in laboratory studies primarily, they have looked at the vector competency or the ability of salt marsh and freshwater mosquitos to transmit the West Nile Virus as well as Eastern Equine and all of them are effective. You can't distinctly separate the two and say, salt marsh you don't have to worry about, freshwater is okay, they're all potential vectors. So you really can't make a distinction of salt versus freshwater with regards to one being lesser of a risk.

LEG. FIELDS:

Didn't they a while ago say that the pipiens, I forget the actual name, was the carrier of West Nile Virus?

DR. CAMPBELL:

That's generally, the culex pipiens is a freshwater mosquito, a container breeding mosquito that you generally find the virus in first, but if that is allowed to perpetuate in nature, you generally -- it goes into what is considered a bridge vector, which can be a fresh or saltwater mosquito. That's the one or the different species that can carry it to the human population.

MR. NINIVAGGI:

And I would add that West Nile Virus has, in fact, been found in salt marsh mosquitos on Long Island, last year in Nassau County, so we know from the laboratory that it can transmit the virus and we know from actual findings in the field that this mosquito can acquire the virus. So if a mosquito can acquire the virus, it can transmit it. And it bites

people aggressively the way salt marsh mosquitos do, then you have to think that this is a potentially serious threat in terms of West Nile transmission.

DR. CAMPBELL:

There's every indication that salt marsh mosquitos are a potential risk to the human population.

CHAIRMAN BISHOP:

Okay. Thank you. Skipping -- okay.

MR. MINEI:

First of all, thank you for taking us out of order. We have a busy schedule tonight, so I appreciate it. I'm Vito Minei. I'm Director of Environmental Quality for the Suffolk County Department of Health Services. I'm joined today with colleague Amy Juchatz, who is a toxicologist with the Division.

I believe Amy has passed out our presentation for you, so I'll just highlight some of the main points we'd like to make today. With regard to the initiative, on behalf of Commissioner Bradley, I wish to state that the Department of Health Services is strongly opposed to the larvicide no-spray list proposal.

The rationale is that the creation of the spatial gaps in the mosquito

22

prevention program could result in significantly increased need for adulticiding, you've heard from both Dr. Scott Campbell and from Dominick Ninivaggi on this point, which is far less environmentally desirable.

There are a couple of major issues I'd just like to highlight for the committee supporting our position. In terms of human toxicity, larvicides are significantly less toxic than adulticides, even though adulticides have relatively low toxicity at the concentrations used for vector control.

If you peruse the narrative supporting this statement, you'll see that the reference literature indicates that Methoprene appears to have a lower risk of chronic toxicity than all adulticides and is equivalent to boric acid. Boric acid is used in the context of this presentation because that's the example used in the County phaseout law as an example of low toxicity chemicals.

The next point the Commissioner would like me to make is in reference to public exposure. Larvicides will result in less public exposure to even safer chemicals, even safer than the adulticides. The point being that if you read to the bottom of this narrative, that the adulticides are applied in residential park areas versus the water bodies that the

larvicides are applied to.

To address Legislator Fields' question on ecological toxicity, the best available information suggests that Methoprene application is not a significant ecological concern. Again, there's supporting narrative to this. It is the reason at this time that Methoprene is regarded as a viable, minimal impact alternative, which is why the State DEC approves it in its aquatic pesticide permits.

Moving on to the next page. People always ask me are we in the Health Department finding this in our monitoring programs, and the statement at the top gives you some guidance on that issue. For the past three years the Department has monitored for Methoprene, and again that's the only chemical larvicide in addition to the bacteriological ones that Dominick uses that's under consideration in this initiative.

We have indeed been monitoring for Methoprene in groundwater and surface waters with a very low detection limit cited here in this reference. In over two thousand groundwater samples, in over three hundred surface water samples, we have yet to detect Methoprene in the environment, the groundwater and fresh surface water.

And then my last point is you all know in the Legislature the major, ambitious effort we're about to enter into, and the point is that this issue as well as all other related issues will be systematically evaluated throughout the course of the vector control long-term management plan and the accompanying GEIS. Thank you.

CHAIRMAN BISHOP:

Legislator Fields wants to follow-up.

LEG. FIELDS:

I still have the same question, though. What does Methoprene and Altocid actually do to other life other than human?

23

MR. MINEI:

I'm going to ask Amy Juchatz, our toxicologist, to respond.

MS. JUCHATZ:

Methoprene is one of the kinds of pesticides that we're shifting to. It's very specific in its target. It's not like the older pesticides, the organophosphates, organochlorine that were really nerve gases. So Methoprene is an insect growth regulator. It's very specific to its toxic effect to invertebrates and it interferes with its progress, it doesn't outright kill them, but it interferes with its maturation process.

In terms -- before EPA reregistered Methoprene, they went through a whole

slew of battery of toxicity testing. They needed chronic toxicity, they needed acute toxicity, they needed lifetime cancer risk evaluation, they also needed reproductive, they looked at endocrine disruption. All those things seemed to indicate that in terms of mammalian toxicity, Methoprene was not, was not a concern.

They also required lifetime aquatic invertebrate studies, and also felt that that justifies its use in aquatic environments, that it would not be a significant aquatic threat. Most of it can have aquatic effects on invertebrates, but most of those levels that I found were greatly above the concentrations that would be expected in water. And so there's a fairly large order of magnitude safety buffer in there between when you might see effects versus the usage rates.

LEG. FIELDS:

What does it actually affect when it's in, when it's being used besides mosquito larvae?

MS. JUCHATZ:

Mosquito -- I guess, I guess it would be -- maybe you would know more.

MR. NINIVAGGI:

At the concentrations that we use, it has not been demonstrated to adversely affect any of the non-target organisms, you know, that I'm aware of. There are a lot of non-target studies that have been done, they tend to be very equivocal or find nothing.

It certainly, it's possible that something is affected that we don't know about, but the effects, if they're out there at all, seem extremely minimal and they certainly don't rise to anything that would cause any major change or any kind of concern in ecological systems.

LEG. FIELDS:

So, it only effects mosquito larvae, nothing else?

MR. NINIVAGGI:

It effects other insects in different concentrations.

LEG. FIELDS:

I'm just wondering what.

CHAIRMAN BISHOP:

At the concentration that you're using --

LEG. FIELDS:

Right.

CHAIRMAN BISHOP:

-- what is it? That's what she wants to know.

MR. NINIVAGGI:

At the concentrations that we use it at, it shouldn't kill any other forms of aquatic life.

LEG. FIELDS:

How does it only kill the larvae of the mosquito, though?

MR. NINIVAGGI:

Well, mosquitos happen to be very vulnerable to this material. And where you put it, you're putting it in very low concentrations where you're finding mosquito larvae.

LEG. FIELDS:

Like, like greenflies or dragonflies or, you know, I mean any other flying insect that you might find at or near a marsh, it does not affect any other flying insect?

MR. NINIVAGGI:

Not that anybody has been able to detect. It certainly does affect other insects at other concentrations, it's used for other types of insect control. But in the salt marsh, you use extremely minute amounts and it's a very rapid breakdown product and that's one of the reasons why the effects are highly specific.

MS. JUCHATZ:

I did see references to dragonflies, because of the concern with that, and the levels that they -- if you compared like the LC 50's, which is a lethal concentration, an acute toxic effect, the levels that are comparable to mosquitos were thousands of times greater. You needed that much more a dose for methoprene with dragonflies.

I think that, you know, what you're getting at it seems surprising that it can be so targeted, but that's sort of the effort of the whole industry, is to try to find these -- this is -- even pesticides now that are these growth, insect growth regulators probably wouldn't be exposed to the battery of tests that Methoprene has been exposed to because now they're trying to push these kinds of pesticides through much more quickly, because they are more specific and preferable to something that kills a wider range of species. But Methoprene didn't get registered, it was registered too early for that and wasn't subjected to the same toxicity testing.

LEG. FIELDS:

I just have one more question, Dominick. How often do you apply these larvicides in a season in one area ?

MR. NINIVAGGI:

Well, it depends upon how often that area breeds. We only apply it if that area breeds. There are some sites where we don't treat it at all.

25

Some of our salt marshes we might apply it ten to twelve times during the course of the season. A season being around twenty-two weeks. We -- when an area breeds a lot, we would prefer to deal with the problem with water management instead of with larvicides, but right now we're scaling back our water management because of the various concerns that have all been brought up in the last couple of years with the plan of work.

LEG. FIELDS:

And how are larvicides applied?

MR. NINIVAGGI:

Larvicides are applied by a variety of means by ground. They're applied by blowers or hydraulic sprayers, but most of our acreage in terms of larvicides is aerial larviciding in the salt marsh, which is by helicopter, because in terms of the overall abundance and overall impact of mosquitos, our salt marshes are our biggest problem. And so about ninety percent of our acreage is of a salt marsh aerial larvicide program.

LEG. FIELDS:

Thank you.

CHAIRMAN BISHOP:

Okay. Legislator Cooper has a question or two.

LEG. COOPER:

Leaving aside the question for now about whether larvicides can pose any potential harm to either other insects or fish or marine life, I'm just concerned that the no-spray list may be the wrong vehicle to express that concern, because the purpose behind the no-spray list was not to protect insects or animal life against feared risks of exposure to chemical pesticides, it was to protect the homeowners and their families.

Has anyone, environmental groups or breast cancer groups or others expressed any concern that application of larvicides would pose a risk to humans?

MR. NINIVAGGI:

I don't think I want to speak for what other people think about this. In general, though, the environmental community, and I don't want to put words in their mouth, but generally they've supported the idea of mosquito prevention and dealing with them in terms of larvicides.

You will find people opposed -- if you take all the different things we do, you will find somebody opposed to every single thing we do if you

look hard enough. I don't think that that's the criteria to decide, you know, what to do. I think the thing to do is to look at the facts as best we have them.

Another way that we would like to see if we could address some of the concerns is to try to come up -- we're trying to figure out ways that we, within the limits, that we can operate, that we can notify the public better about things like, particularly, the aerial larviciding.

Right now when we have an aerial larviciding set up, I will send a fax or E-mail out to all the towns, to you Legislators, I hope you're getting

26

them, saying which towns we're conducting aerial larviciding in. We can look at things like putting on the web page, you know, the names of the different marshes that we're treating by air.

One thing that we will do for people, if they're concerned about whether or not they found -- we found breeding and whether we're going to treat them or whether we have treated them, is a rather low tech approach. It's call a door hanger. And basically if a crew is visiting a site and they have conducted some treatment, they hang this little item on the door. They can check off what, if anything, they did, what, if anything, they found and we can let people know what we've done in the particular site. So that's something that people are interested in.

If somebody would request, if somebody is concerned and they'd like to know what the crew found on their site, I don't need legislation to tell the crew, listen you go to this place, leave a door hanger and what you found. That's something that's relatively easy to do if we don't have thousands of people asking for it.

LEG. COOPER:

The point I was getting at, Dominick, is that I haven't heard any environmental groups express concern about chemical larvicides as it affects human health. If there is a potential for risk to our life and fish and insects and the environment, then perhaps that's something that should be explored. But I don't think that this legislation is the right vehicle for that, because as I said earlier, the purpose of the no-spray list was to protect Suffolk residents and, again, unless I'm advised to the contrary, I haven't heard anyone say that there are health risks to humans posed by chemical larvicides.

MR. NINIVAGGI:

I can tell you that Methoprene is authorized by the World Health Organization at a hundred parts per million in drinking water. We use four parts per billion.

LEG. COOPER:

The reason the no-spray list was written the way it was, was to reduce the use of adulticides, and I had advocated at the time that one way to accomplish that was to increase the use of larvicides. I just wanted to put that on the record.

CHAIRMAN BISHOP:

Okay. Thank you all. I'm going to take it out of order, but I need to get the quorum back in here. Could you round them up, Caracciolo and Crecca.

I'll make a motion to take, motion to take Resolution 1865, to expand scope of coverage no-spray list out of order.

LEG. CRECCA:

Second.

CHAIRMAN BISHOP:

Second by Legislator Crecca. Resolution is now before us. Motion to approve.

27

LEG. CRECCA:

I'll second the motion to approve, but for the purposes of defeat.

CHAIRMAN BISHOP:

For the purpose of defeat by Legislator Crecca. Is there a second on that? Is there a second? Hearing none, I would make a motion to table subject to call.

LEG. CRECCA:

Second.

CHAIRMAN BISHOP:

Before the vote, I would note that saying that no-spray is contrary to the logic of no dump. It doesn't quite ring true. Obviously, dump the water is an organic, natural approach, whereas no-spray and spraying and bricking is a chemical approach.

I think Legislator Guldi is responding to concerns that he is hearing from his constituency and it speaks to the fact that we need to do better, and I'm sure you're working a lot on it already, but there needs to be even greater outreach efforts into many of the coastal areas in Suffolk County and on the implications of these products.

Also, I, myself, am withholding judgment until after this important study that we will be undertaking in the months ahead. And I think it's after that is concluded that we can make our wisest policy decisions.

So I'm going to, as I said, make a motion to table subject to call. Is

there a second on that? Legislator Cooper seconds. All in favor?
Opposed? The resolution is tabled subject to call. (VOTE: 4-0-0-1)
(Absent: Caracciolo) TABLED SUBJECT TO CALL

CHAIRMAN BISHOP:

All right. That clears the decks for Camelot. Everybody has got places to go and things to do. But why don't we -- before we go to Camelot, we'll just finish the agenda, skipping over that one resolution and that will allow us to -- what?

LEG. CRECCA:

We have a number of speakers that have been waiting.

CHAIRMAN BISHOP:

I know, that's why I want to get rid of, that's why I'm trying to move this meeting as quickly as possible, as I think everybody has noticed.

1149. Implementing Greenways Program in connection with acquisition of farmland development rights at Yaphank (Town of Brookhaven). ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Towle)

CHAIRMAN BISHOP:

1149 is Greenways Program farmland development rights. It's still awaiting Town Board action in Brookhaven. Motion to table by myself. All in favor? Opposed?

28

1412. Adopting Local Law No. Year 2002, a charter law adding Article XXXVII to the Suffolk County Charter to provide a Suffolk County Save Open Space (SOS) Fund. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING AND FINANCE & FINANCIAL SERVICES. (Fisher)

CHAIRMAN BISHOP:

1412 is the SOS fund. Motion to table by myself, second by Legislator Crecca. All in favor? Opposed? (VOTE: 4-0-0-1) (Absent: Caracciolo) TABLED

MR. SABATINO:

1149 you can strike from the agenda, it's a six-month rule.

CHAIRMAN BISHOP:

Six month rule.

1419. Authorizing planning steps for the acquisition of land under pay-as-you-go 1/4% Taxpayer Protection Program (land known as Bluepoints Company Property - Underwater Lands, Town of Brookhaven). ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Fields)

CHAIRMAN BISHOP:

1419 on page three, we're going down the tables. Authorizing planning steps for acquisition of the Bluepoints property. Legislator Field.

LEG. FIELDS:

Motion to table.

CHAIRMAN BISHOP:

Motion to table, second by myself. (VOTE: 4-0-0-1) (Absent: Caracciolo)
TABLED

1540. Authorizing planning steps for the acquisition of land under pay-as-you-go 1/4% Taxpayer Protection Program (Land of Ronkonkoma Cenacle, Town of Brookhaven). ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Caracappa)

CHAIRMAN BISHOP:

1540 is planning steps pay as you go, the Cenacle property. That's the one that scored very low. Motion to table by myself, second by Legislator Crecca. All in favor? Opposed? (VOTE: 4-0-0-1) (Absent: Caracciolo) TABLED

1785. Authorizing planning steps for acquisition under Water Quality Protection Component of the 1/4% Drinking Water Protection Program (property at West Broadway and Barnum Avenue, Port Jefferson Village, Suffolk County Tax Map Number 0206-012.00-06.00-003.000 & 007.000). ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Fisher)

CHAIRMAN BISHOP:

1785 I'm advised is now ripe for consideration. It's authorizing planning steps for acquisition of the Water Quality Protection Component of the 1/4% Drinking Water Protection Program.

LEG. CRECCA:

I'll make a motion.

29

CHAIRMAN BISHOP:

Motion by Legislator Crecca.

LEG. FIELDS:

May I just say something quickly?

CHAIRMAN BISHOP:

Yes.

LEG. FIELDS:

The Committee has been formed and we had our first meeting two days ago or yesterday, I guess, and from this point forward any quarter percent resolution will now go before the committee.

CHAIRMAN BISHOP:

Okay.

MR. ISLES:

If I can just make one comment?

CHAIRMAN BISHOP:

Yes.

MR. ISLES:

I think there's a little bit of a -- this is entitled Water Quality Protection, but it's actually coming under the 12-5-E, the old quarter percent program. I'm not sure why it says Water Quality Protection, because your point is well taken, but just so you're aware of that.

LEG. CRECCA:

This is the regular --

MR. ISLES:

This is the old quarter percent, 12-5-E.

CHAIRMAN BISHOP:

It's 12-5-E, okay, right.

LEG. FIELDS:

Motion to approve.

CHAIRMAN BISHOP:

Motion to approve by Legislator Fields. All in favor? Opposed?

LEG. CRECCA:

This is West Broadway and Barnum, the one we heard about last time. I'll second the motion, Mr. Chairman.

CHAIRMAN BISHOP:

Did we do 2728, the Shelter Island votes? No, they were withdrawn, right?

All in favor? Opposed? It's approved. (VOTE: 5-0-0-0) APPROVED

30

1827. Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program (St. Gabriel's Property) Town of Shelter Island. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Caracciolo)

CHAIRMAN BISHOP:

1827, the Shelter Island resolution.

LEG. CARACCIOLO:
I make a motion to table.

CHAIRMAN BISHOP:
Tabled subject to call?

LEG. CARACCIOLO:
No, no, just make it tabled.

CHAIRMAN BISHOP:
It's going to be on the agenda every meeting and you tell me that has --

LEG. CARACCIOLO:
No, I understand, but --

CHAIRMAN BISHOP:
Are you going to change the --

LEG. CARACCIOLO:
Yeah.

CHAIRMAN BISHOP:
Right. Okay. Motion to table by Legislator Caracciolo.

LEG. CARACCIOLO:
Well, prior to changing the funding source, we're waiting for a determination by the Health Department as I recall Mr. Isles saying as to whether or not the water, the aquifer is underneath this property.

CHAIRMAN BISHOP:
Motion to table by Legislator Caracciolo, seconded by myself. All in favor? Opposed?
(VOTE: 5-0-0-0) TABLED

1828. Authorizing planning steps for acquisition under Suffolk County Multifaceted Land Preservation Program (property of WDP Enterprises at Ronkonkoma) Town of Brookhaven. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Caracappa)

CHAIRMAN BISHOP:
1828. Motion to table -- that's the Multifaceted Land Preservation Program, property of WDP Enterprises. Motion to table by myself, second by Legislator Caracciolo. All in favor? Opposed? (VOTE: 5-0-0-0)
TABLED

1834. Authorizing planning steps for the acquisition of land under pay-as-you-go 1/4% Taxpayer Protection Program (land of Galasso, Town of Islip). ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Alden)

CHAIRMAN BISHOP:

1834. Planning steps for acquisition pay-as-you-go, the Galasso property, Town of Islip. That's not ripe also, is that right?

MR. SABATINO:

That was tabled because of ranking questions you had, not because it's not ripe. It had a ranking of twenty-five and I think the committee was a little --

MR. ISLES:

I think you also had a question too as to whether it was a buildable lot. This is the one where Mr. Murphy from the Town of Islip appeared on.

CHAIRMAN BISHOP:

Right.

MR. ISLES:

I did receive a letter from Mr. Murphy subsequent to the meeting and he's indicated that he believes that it's not a buildable lot. Now -- so in terms of the factual question --

CHAIRMAN BISHOP:

It is tiny.

MR. ISLES:

It is tiny. It is adjacent to other County holdings at Orowoc Creek. We think it's not a bad acquisition. If it's not buildable, obviously that would have to be reflected in the appraisal.

CHAIRMAN BISHOP:

Right.

MR. ISLES:

But it was a twenty-five, kind of like a borderline.

LEG. FIELDS:

Can I ask a question?

CHAIRMAN BISHOP:

Legislator Fields.

LEG. FIELDS:

If it's not buildable, that would mean then that no one is going to purchase it and put a house on it, because it's not large enough. So if it's not large enough and it's not buildable, why do we have to buy it?

MR. ISLES:

Well, we don't have to, but the, since we own the adjacent parcels, it

might give us better management control. Also there was --

LEG. FIELDS:
How large is it?

MR. ISLES:
It's small. It's like a quarter of an acre or so.

32

LEG. FIELDS:
So we wouldn't have to manage a quarter of an acre.

MR. ISLES:
The other aspect is that there's a paper street that leads to access to this, which is an undeveloped road on a map. If the parcel were acquired, the paper street could be abandoned. But here again, we think it's not a bad acquisition. I would point out that in terms of the threat of development, based on Mr. Murphy's letter, the threat is not very high. We agree with that.

The possibility is maybe an adjacent homeowner could by it and expand their backyard or something like that.

CHAIRMAN BISHOP:
Motion to table by Legislator Fields. Is there a second? I'll second it. All in favor? Opposed? 1834 is tabled. (VOTE: 5-0-0-0) TABLED

1836. Authorizing planning steps or implementing Greenways Program in connection with acquisition of active parklands at Montauk Highway, East Moriches (Town of Brookhaven). ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Caracciolo)

CHAIRMAN BISHOP:
1836 is planning steps for Greenways Program in connection with active recreation in Montauk Highway.

LEG. CARACCIOLO:
Motion to approve.

CHAIRMAN BISHOP:
Motion to approve. Explanation, Counsel. How big is the property?

MR. SABATINO:
Planning steps for twenty-six acres, active parklands, Greenways Program. The Town would have to come up with a commitment at a later date.

CHAIRMAN BISHOP:
Is this the -- what is this property, is this the sod farm?

LEG. CARACCIOLO:

This is a -- part of it is an airport.

MR. ISLES:

Yes. Known as the Lufker Airport in Moriches.

LEG. CARACCIOLO:

It's small.

MR. ISLES:

It's a small, dirt, grass strip, air strip.

LEG. CARACCIOLO:

I wanted to speak to the Town about their commitment.

33

CHAIRMAN BISHOP:

Okay. Motion to approve by Legislator Caracciolo, second by myself. All in favor? Opposed? (VOTE: 5-0-0-0) APPROVED

CHAIRMAN BISHOP:

It's planning steps only, obviously.

LEG. CARACCIOLO:

Yes.

CHAIRMAN BISHOP:

1840 is appropriating quarter percent tax proceeds, pay-as-you-go open space acquisition, Camelot. We'll skip over that, sorry.

1841. To expand membership of Greenways RFP Committee to designate site for Suffolk County Community Greenways fund educational and interpretive center. ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Caracciolo) (PREVIOUSLY ADOPTED AT GENERAL MEETING)

CHAIRMAN BISHOP:

1841. To expand --

LEG. CARACCIOLO:

We did that.

CHAIRMAN BISHOP:

No, we're going, we're going, we're getting to that. 1841 to expand membership of the Greenways RFP --

MR. SABATINO:

41 was done on the floor at the 27th.

CHAIRMAN BISHOP:

Oh, I see. Strike that from the agenda. I apologize. Leaving nothing, because we did, 1865 was tabled subject to call. Now we've cleared the decks for Camelot. Yes, Counsel reminds me also that we have two SEQRA's, CEQ's.

48-02 Proposed SEQRA Classifications of Legislative Resolutions Laid on the Table on August 6, 2002.

CHAIRMAN BISHOP:

Motion on 48-02, SEQRA Classification, Legislative Resolution. Motion to approve by myself, second by Legislator Caracciolo. All in favor? Opposed? (VOTE: 4-0-0-1) (Absent: Fields)

49-02 Proposed Improvements to the Foley Skilled Nursing Facility, Yaphank Town of Brookhaven, CP 4057-Unsited Action (Negative Declaration)

CHAIRMAN BISHOP:

And proposed improvements for the Foley Health Facility. Motion by Legislator Caracciolo, second by Legislator Crecca. All in favor? Opposed? (VOTE: 4-0-0-1) APPROVED

34

50-02 Proposed acquisition of Barnum Avenue Property Under Suffolk County Multifaceted Land Preservation Program, Village of Port Jefferson-Unlisted Action (Negative Declaration)

CHAIRMAN BISHOP:

Proposed acquisition of Barnum Avenue property. We approved this earlier. This is the SEQRA on it. Motion by myself, it's a neg/dec, second by Legislator Crecca. All in favor? Opposed? It's approved. (VOTE: 4-0-0-1) APPROVED

1840. Appropriating 1/4% sales tax proceeds for pay-as-you-go open space acquisition of Camelot/Paumanok Wetlands property, Town of Huntington (Suffolk County Tax Map No. 0400-191.00-02.00-024.000). ASSIGNED TO ENVIRONMENT, LAND ACQUISITION & PLANNING (Presiding Officer)

CHAIRMAN BISHOP:

All right. So we have from the Suffolk County IDA representatives who want to come forward who were invited by myself to come forward to speak on the resolution to acquire property that they own, which presented a very peculiar situation. I know Deputy Supervisor Nolan is here as well.

He's upset because somebody had to leave, but I can't, I can't help that. Legislator Crecca has to leave as well and he outranks --

MR. FERGUSON:

Good afternoon. I'm Bruce Ferguson, Administrative Director of Suffolk

County IDA.

MR. MC QUEEN:

John McQueen; Nixon, Peabody, bond counsel, the IDA.

MS. NOLAN:

I'm Laurie Nolan, Deputy Supervisor from the Town of Huntington.

CHAIRMAN BISHOP:

You're not part of the IDA?

MS. NOLAN:

No, I'm not. Do you want us to wait?

LEG. CRECCA:

I'd rather leave them up here.

CHAIRMAN BISHOP:

You're welcome to stay.

MR. PACHMAN:

Howard Pachman, Counsel to the IDA.

CHAIRMAN BISHOP:

Okay. In considering this resolution last time, we came to learn that it is, title is held by the Suffolk County IDA, is that correct?

MR. FERGUSON:

Nominal title is held by the IDA. Perhaps it would be helpful if I explained how the IDA process works and then you can step back and make

35

your policy determinations in regards to whether or not you want to acquire this property.

CHAIRMAN BISHOP:

Okay.

MR. FERGUSON:

I think that would probably help. Industrial development agencies in New York State are public benefit corporations created pursuant to Article 18-A of the General Municipal Law. The purpose of an IDA is to promote economic development either for the retention of jobs, the creation of jobs, expansion of the tax base, et cetera. Generally it's also, it's also included within the purpose of an IDA, the improvement of the quality of life of the residents within the area served by the IDA.

The Industrial Development Agency does not make loans, the Industrial Development Agency does not have its own money to loan. The Industrial

Development Agency is a financing conduit through which a financial institution makes the loan typically through the, through a bond issue.

In other words, the financial institution purchased the bond, quote, unquote, and the financing goes to the borrower so they can go forward with the project. No money comes from the IDA.

IDA bonds are non-recourse bonds. They carry no guarantee by the IDA, no guarantee by the County and no guarantee by New York State. The IDA holds nominal title as opposed to what's referred to as beneficial title. This is a legal structure by which the IDA is able to flow some benefits to the project.

Now, in the case of Camelot, the project was structured that there would be sales tax exemptions provided on the construction of the project and that's why the IDA had nominal title, and at the completion of the construction of the project, title would revert back to Camelot.

Now, just to give you a chronology in regards to the Camelot project, to the best of my knowledge, the Town of Huntington Zoning Board of Appeals granted a special-use permit in, on November 12th,'98, for a 120 unit congregate care facility.

An application came before the IDA to build that facility and that was initially approved June 24th,'99. A public hearing notice was published on September 25th,'99, and certified copies of that hearing notice were sent to the Town Supervisor, the County Executive and the Superintendent of the South Huntington School District. On October 25th,'99, a public hearing was held at the offices of the Long Island Association and there were no comments received, no one attended the hearing.

In the process, there has to be an allocation of tax exempt bond authority, and New York State provided the tax exempt bond authority allocation in November, on November 17, '99. The project closed in December, December 22nd, '99. On the, on October 4th, 2000, I was sent a copy of a letter by South Huntington School District, which showed that their Board had voted to oppose Camelot Village.

Now, in the bond documents, the project was scheduled to be completed by

36

March 31st, 2002. And since that has not happened, certain legal events take place, which leave us basically being foreclosed.

On June 11th of this year, I received a letter from the Division of Real Estate indicating, a copy of a letter indicating that the County was interested in acquiring the property for I think 3.6 million.

So rather than go -- what would normally happen would be to transfer the

title back for the foreclosure, but rather than go through that process, the IDA continued to hold the title, which in a sense keeps it captive so that the County and the Town can make the determinations as to whether or not they're going to go forward with the land acquisition. And that's the involvement of the IDA.

CHAIRMAN BISHOP:

What are the legal implications when they -- what is it, what was the trigger on 6/11/02?

MR. FERGUSON:

No. The trigger was March 31st, '02.

CHAIRMAN BISHOP:

What was the -- right.

MR. FERGUSON:

In the bond documents, in the original bond issue, between the lender, the facility was to be completed by March 31st, '02. And if it had not been completed, that triggers an event of default or foreclosure or whatever they call it.

MR. MC QUEEN:

Right. An event of default had occurred earlier, though, because, you know, much earlier in the process, because the project was not built, there were other payments that weren't made, so a default had occurred prior to March 31 of 2002.

LEG. CARACCIOLO:

Who were the entities that the IDA was, was involved with here?

MR. PACHMAN:

Excuse me? I didn't understand that.

LEG. CARACCIOLO:

Camelot, in other words, who was Camelot?

MR. PACHMAN:

Mr. Curry can answer that, he is counsel to them.

LEG. CARACCIOLO:

Okay.

MR. CURRY:

I believe I provided that information by letter to you.

LEG. CARACCIOLO:

Yes, you did, but the other members of the committee have not --

MR. CURRY:

My name is Peter Curry, member of Farrell, Fritz, Melville, New York. Camelot is an entity which is owned by United Vanguard Homes which is essentially owned by a gentleman called Carl Paffendorf. He holds the majority interest in that entity.

LEG. CARACCIOLO:

And as you identified in the documents, and unfortunately they're in my office, I don't have them with me, but I will be happy to share them with Counsel and the committee members, could you just quickly summarize the change of title of this property?

MR. CURRY:

I think in your letter you had requested to know what had happened to the property since 1995. In 1995, an entity acquired the property, actually didn't acquire the property until later, they acquired an interest in a foreclosure action for approximately eight hundred and fifty thousand dollars. What they acquired is what's known as a pig in a poke. They acquired the ability to complete a foreclosure action if it could be completed. It took the action as it was, bore the risk of a bankruptcy, etcetera, etcetera. They then closed title to the property in that foreclosure action.

Subsequently, at the time of this transaction, they transferred title for 3.8 million dollars and then title was subsequently transferred in the same day to the Suffolk County Industrial Development Agency.

LEG. CARACCIOLO:

Now, did this money actually cross hands, I mean there's a transaction here of 3.8 million dollars?

MR. CURRY:

That's correct, yeah. The owners of the property were paid the 3.8 million dollars, the prior title holder.

LEG. CARACCIOLO:

And that's recorded?

MR. CURRY:

Recorded, transfer tax was paid on it. It was a real transaction and there were obligations that were paid off at that time, mortgages, preferred notes, etcetera, etcetera. So that that transaction was a real economic transaction referring fair market value at that time.

LEG. CARACCIOLO:

Okay. Now, as far as the Town is concerned, has the Town prepared -- has the Town ordered an appraisal, and if so, what is the appraised value and when was that appraisal done and by whom?

MS. NOLAN:

The Town did have an appraisal some time ago. I don't think that I'm at liberty to tell you in public session what that appraisal is.

LEG. CARACCIOLO:

Well, a lot of people have heard the numbers, so that's okay. I understand.

38

MR. MC QUEEN:

I could add that as bond counsel at the time the bonds were issued and we were giving our opinion or preparing to give our opinion, we did require that an appraisal be done of the property at that time so that we could be comfortable that the 3.8 million represented fair market value. And although I can't give you a copy of an appraisal, there was an appraisal done and it indicated that the value was 3.8 million. So back in December of '99, there was a contemporaneous appraisal that showed what the value was.

MR. PACHMAN:

Just for the record, Mr. Caracciolo, Rogers and Taylor Appraisers were the appraisers and they --

CHAIRMAN BISHOP:

You have to use the microphone.

MR. PACHMAN:

Rogers and Taylor were the appraisers, which the date is December 20th 1999. They do appraisals for the State of New York, the County and various other municipalities, they are one of the preeminent appraisers in the County.

LEG. CARACCIOLO:

Do we have a current appraised value of this property?

MR. PACHMAN:

We stop anything once we convey title --

LEG. FIELDS:

You have to use the microphone.

MR. PACHMAN:

Our position in the IDA stops after we convey, the bonds closed and we take the nominal title. Anything thereafter, we wouldn't have any documents, documentation as to value.

LEG. CARACCIOLO:

So there is not a present-day appraisal on this property?

MR. CURRY:

The County ordered an appraisal.

MS. NOLAN:

I believe both the Town and the County have done appraisals for open space purposes. There are two appraisals. And the County number is higher than the Town number.

LEG. CARACCIOLO:

The property owner before foreclosure, before he took action to complete this congregate care facility, one hundred unit care facility, had to receive from the Town a special-use permit, which was granted, it was indicated earlier back in October of 1998.

MR. NOLAN:

That's correct.

39

LEG. CARACCIOLO:

What happened with the property owner's intent to actually build this facility between then and the present time?

MS. NOLAN:

Oh, I can't answer the property owner's intent.

MR. PACHMAN:

I think Mr. Curry can answer that.

MR. CURRY:

The short or the long answer? The -- in 1999, with the special-use permit, they closed title to the property and reconveyed to the Suffolk County Industrial Development Agency. After that time it was determined that the State DEC had to issue two permits with regard to this, a SPEDES permit and a wetlands adjacent area permit.

Those permits were obtained in the year 2001 after several hearings and then an Article 78 proceeding was commenced by several different groups. The Article 78 proceeding, the DEC and my client won the Article 78 proceeding. Then there was I believe a notice of appeal extant at this time and the property could not be built, the building permit could not be obtained until that occurred.

LEG. CARACCIOLO:

And that occurred when?

MR. CURRY:

That occurred in 2001.

LEG. CARACCIOLO:

So between 2000, when there was a previous resolution introduced by I think the County Executive and the District Legislator, and now, what transpired or what prevented consideration of this property for preservation?

MR. CURRY:

Well, at the time my client was interested in continuing to develop, he invested a considerable amount of time and energy into clearing up what he thought was a specious DEC issue. It took a long period of time and changed his overall attitude toward proceeding toward a closing. It was a technical fault in the IDA documents, I do not believe their foreclosure action has been commenced, but a notice of default has been issued on that.

At this stage of the game, while he has other offers and feelers to buy the property, since there was interest on the part of the County and the Town to acquire it, he determined that he would go ahead with that.

MS. NOLAN:

Legislator Caracciolo, can I just add to that? The permit was issued in 1998. The Town did not have open space money available until 1999. Our program passed on the bond act in 1998. So the first time we had money available was in 1999. Our program, however, is predicated on the seller being a willing seller, so that the owner was approached two years ago and was not a willing seller at that time. So that was what stopped the

40

acquisition at that point.

LEG. CARACCIOLO:

Okay. Are the current appraisals consistent with the previous appraisal of 1999, I believe it was stated, when the IDA conducted their appraisal?

MS. NOLAN:

I believe that the Town appraisal is less.

LEG. CARACCIOLO:

Okay. Because I've heard two different figures.

MS. NOLAN:

Okay.

LEG. CARACCIOLO:

That's why I said I thought it was pretty widely known by the Legislators what the figures were, but if we have to go into executive session --

CHAIRMAN BISHOP:

You said them at the last meeting, the appraisal numbers, didn't you?

LEG. CARACCIOLO:

I did not say them, no. I've only heard them within the last day.

CHAIRMAN BISHOP:

Okay. For the IDA, what I want to know, and the essence of why you were brought here is when were you brought in on the project and did the IDA's involvement enhance the value of the property so that we are now asked in one hand Suffolk County is enhancing value of property and on the other hand later on is saying, no, we're going to buy the property? That's what I'm trying to ascertain.

MR. FERGUSON:

The initial approval by IDA was in I think June '99, and the special-use permit had been issued in November of '98, so our actions had no effect on the value. I mean the piece of property had --

CHAIRMAN BISHOP:

When did they --

MR. FERGUSON:

-- a permit to allow a hundred and twenty unit congregate care facility.

CHAIRMAN BISHOP:

When did the -- first of all, who comes to the IDA, is it the owner or is it the developer or are they one in the same?

MR. PACHMAN:

Usually one in the same.

MR. FERGUSON:

They're one in the same.

CHAIRMAN BISHOP:

And in this case, they are one in the same?

41

MR. PACHMAN:

Yes.

CHAIRMAN BISHOP:

So when did they approach Suffolk County IDA? It must have been before.

MR. FERGUSON:

A month or two before.

CHAIRMAN BISHOP:

They had already had all their town approvals when they came to the Suffolk County IDA?

MR. PACHMAN:

No. They had their variance for a special-use permit at that time.

LEG. FIELDS:

You have to use the microphone.

CHAIRMAN BISHOP:

Sir, I don't know why you won't use the microphone.

MR. PACHMAN:

Oh, I'm sorry. They used to say I talk too loudly, so I'm sorry I missed.

CHAIRMAN BISHOP:

You were saying they had their special-use permit.

MR. PACHMAN:

They had a special-use permit, and based upon that, that already indicated that most of the process was done. After getting the other necessary permits, which were the DEC permits and the SPEDES permits, they then go to the town to get a building permit, and that's usually proforma.

Someplace in between the time we got involved, took title to it and they were supposed to complete their process, then whatever took place thereafter caused the grief that is, that they didn't get the building permits, the lawsuits and various things like that.

CHAIRMAN BISHOP:

The IDA has, has the ability to provide government bond rates to private sector entities.

MR. PACHMAN:

It doesn't get bond rates.

CHAIRMAN BISHOP:

Bottom -- I mean that's the functional, right --

MR. FERGUSON:

Yeah.

MR. MC QUEEN:

Because the IDA is a governmental entity, if you meet certain

qualifications, then the bonds will carry a tax exempt break, right.

CHAIRMAN BISHOP:

But that's not the benefit this project got?

MR. MC QUEEN:

That was one of the benefits the project got.

CHAIRMAN BISHOP:

Oh, you did get that. And it also received a --

MR. MC QUEEN:

A sales tax exemption.

CHAIRMAN BISHOP:

Which, which means --

MR. MC QUEEN:

Which under New York law, in order for that benefit to be granted, the IDA has to take title. So it did take title, and had the project been built, the sales tax exemption would have also gone along to the project.

MR. CURRY:

It should be noted that not a dollar of the sales tax exemption has been used.

MR. FERGUSON:

Because the project was not built.

MR. CURRY:

Because the project was not built. You should also note that the closing costs in doing this transaction, there have been several million dollars lost in this transaction up till now. For anybody to consider that somebody is making a profit on the sale to the County and the Town of this property, just has to review the closing documents.

This is a bond that closed in 1999. Several million dollars were involved in doing the closing and the project has not yet been built. There is no profit to be made by anybody here.

CHAIRMAN BISHOP:

Well, is this correct, that Mr. Paffendorf or his corporate entity paid eight hundred thousand dollars for the property and is now, is it an asking price of 3.8 million or is that --

MR. CURRY:

No. This is a price of 3.8 million dollars. I think as I said before he paid eight hundred thousand dollars to acquire a foreclosure action, which could have resulted in a bankruptcy or any one of a number of things which could have prevented him from getting title.

The difference between the eight hundred thousand acquired as a property without any approvals in 1995 and the 3.8 million dollar value in 1989 as

a project with approvals, is very understandable in the real estate community, four years and an approval later.

43

But I will tell you that notwithstanding the concentration that you have on that issue, this has resulted in a loss of several million dollars. So I do believe that the 3.6 million dollars is certainly not arguable at all, that that's the value of the property right now.

CHAIRMAN BISHOP:
How many acres is the property?

MR. CURRY:
Ten, ten acres.

CHAIRMAN BISHOP:
So ten acres of wetlands that you cannot get a SPEDES permit on --

MR. CURRY:
We have a SPEDES permit, excuse me, Mr. Bishop.

CHAIRMAN BISHOP:
Oh, I thought I heard earlier that there was no, there was none.

MR. CURRY:
We have a SPEDES permit, we have whatever permits we need to construct from the DEC. There was an Article 78 action commenced to set aside those permits, that action was denied. It is not a wetlands, no part of it -- well, the part that we were going to built is a wetlands adjacent area. It's a ten acre parcel, the vast majority of it is not in a wetlands, but in a developable, buildable, commercial area.

CHAIRMAN BISHOP:
I'm bouncing back and forth. Does the Suffolk County IDA have any other applications for -- this is assisted living facility?

MR. PACHMAN:
Sure.

MR. FERGUSON:
Just to clarify, the tax exempt bond that was, had a rate of 7.9 percent fixed for thirty years. We've provided assistance for life care facility called Jefferson's Ferry in Centereach/Setauket area, and we also provided the Peconic Health Care, Peconic Health Landings in Greenport.

CHAIRMAN BISHOP:
Are these projects under construction or they're --

MR. PACHMAN:

Some -- Jefferson is almost complete.

LEG. FIELDS:

You have to use the microphone.

MR. FERGUSON:

Jefferson is almost complete and occupied, and Peconic Landings I think is about eighty percent complete.

MR. PACHMAN:

The old { Brecknock} Hall in Southold.

44

LEG. FIELDS:

Can I?

CHAIRMAN BISHOP:

Yes. Legislator Fields.

LEG. FIELDS:

You just said that there are no wetlands on the property. Am I wrong, did we not hear testimony last time that there are Class One wetlands on the property?

MR. CURRY:

No. I corrected myself and said that the vast majority of the property is not a wetlands and that the construction was going to be in a wetlands adjacent area. There are two pools of water in the very front of the property that were not going to be built. The fact that there are wetlands in that area does not affect the value of this property. It is a commercial buildable property.

LEG. FIELDS:

So there are ten acres of property.

MR. CURRY:

Right.

LEG. FIELDS:

How many acres are wetlands?

MR. CURRY:

Less than two.

LEG. FIELDS:

So eight acres of buildable land has an appraisal of about 3.8 million dollars?

MR. CURRY:

That's correct.

LEG. FIELDS:
For eight acres.

MR. CURRY:
3.6 I believe the appraisal was.

MR. MC QUEEN:
One other piece of information that might be of use to the committee is that in the title report that was done at the time of the bond issue, it recited the history of all the mortgages on the property, and way back in November of 1985, there was a mortgage of eight hundred thousand dollars put on this property. So apparently there was a sale for at least eight hundred thousand, maybe more, we don't know what the price was, but, you know, that goes back seventeen years ago. So that might be of use to the committee.

MR. PACHMAN:
Using the microphone, Mr. Bishop.

45

CHAIRMAN BISHOP:
You're making progress.

MR. PACHMAN:
Well, I'm an old horse, it takes time. By the way, the owner of this property, Paffendorf or Camelot, is not going to get this money. This is going to go to pay off the balance of the bonds. And the Rochester Fund is, if you'll pardon the expression, taking the haircut on this thing, because I think they're owed about seven million dollars. Am I correct on that?

MR. MC QUEEN:
Right. The balance right now on the bonds is 7.3 million, so that's right.

CHAIRMAN BISHOP:
So if we don't buy it, who pays the 7.3 million?

MR. PACHMAN:
It will go to the foreclosure.

MR. MC QUEEN:
Right. It will go to foreclosure and they'll look for another buyer.

MR. PACHMAN:
And IDA will be out of title and they can sell it to anyone having a permit showing there are so many lots available to use this property.

CHAIRMAN BISHOP:

Well, wouldn't Paffendorf have to pay this?

MR. PACHMAN:

No, no. He's going to be foreclosed out, because he's in default.

MR. MC QUEEN:

He can't pay.

MR. PACHMAN:

He can't pay it.

CHAIRMAN BISHOP:

You have to -- I don't think we have anybody here, maybe Cooper, you have some financial sophistication, you can unravel this for me. The IDA financing is caput, right? There's nobody who can --

MR. MC QUEEN:

Well, the bonds, the bonds are still outstanding, there's a balance unpaid of 7.3 million. And so the Rochester Fund, which bought the bonds, is looking somewhere to try to recoup as much as they can to soften, you know, the 7.3 million that they're out.

CHAIRMAN BISHOP:

All right. So you have, you have to walk the Chairman, that's me, through this very, very systematically, because I truly do not understand.

46

Camelot owns property. They want to build a congregate care facility. They go to the -- they get approval from the Town of Huntington for a special-use building permit, then they go to the Suffolk County IDA and say we're approved for this special use, is this something that you want to assist us with. For whatever policy discretionary reasons, the IDA says yes, we want to subsidize the construction of this and bonds -- then a bank buys bonds --

MR. MC QUEEN:

Or in this case, a mutual fund that buys municipal bonds.

CHAIRMAN BISHOP:

Right.

MR. MC QUEEN:

Essentially, a financing source.

MR. PACHMAN:

Actually, the General Municipal Law --

MR. MC QUEEN:
Buys the bonds and --

MR. PACHMAN:
Actually, the General Municipal Law sets forth that this is one of the things --

LEG. FIELDS:
Use the microphone.

CHAIRMAN BISHOP:
Mr. Pachman --

MR. PACHMAN:
The General Municipal Law specifically sets forth that this use is what IDA funds should be used for.

CHAIRMAN BISHOP:
Right. It's one of the listed uses that are, that are legal.

MR. PACHMAN:
Yes.

CHAIRMAN BISHOP:
Okay. But it's still discretionary, not every congregate care facility, I assume, gets approved or is that something that we're constantly --

MR. PACHMAN:
No. They must have permits, they must have, they must have the financial ability, they must have many things that go into going to make a successful transaction and a floating of bonds and securities.

MR. CURRY:
There was a twenty percent set aside of the units in this facility, twenty percent would be used for individuals of low income. And that was the reason why it fit the IDA criteria, among others.

CHAIRMAN BISHOP:
Okay. So now the developer, they receive what, when the IDA approves it?

MR. MC QUEEN:
The bond proceeds are deposited into a construction fund and used to acquire, construct the project. So what happened was that twenty-three million dollars of bonds were issued, the Rochester Fund paid that amount of money in. The money went into a construction fund, and at the closing, approximately 4.5 million was disbursed out of that twenty-three million to -- so that the borrower could buy the property and --

CHAIRMAN BISHOP:

Does the IDA get paid at that time?

MR. MC QUEEN:

Well, the IDA has a fee, but it's not a large fee. They have to support themselves, so there is a fee charged, but the bulk of the 4.5 million went to buy the property and to pay closing costs associated with the bond issue. So after the disbursements at closing, there was about eighteen million, eighteen and a half million left in the construction fund, which at that time would have been sufficient to build the project.

CHAIRMAN BISHOP:

So the four and a half million dollars primarily went to buy the land?

MR. MC QUEEN:

Buy the land, correct. The 3.8 million plus other closing costs, right. And so what happened was -- so then that sort of -- the money that was in those funds never got disbursed to build the project, because it just didn't go forward. So eventually the bondholder, the Rochester Fund, they used some of that money to pay the interest on the bonds during, during that period before, you know, the construction would have been completed.

And then finally the Rochester Fund basically decided this project is not going to be built and, therefore, we're going to redeem bonds with what's left. And so at that point there was about fifteen million dollars still left that they could use to pay off some of the bonds, but that left seven million or so unpaid. And so today, the bondholder sits there with 7.3 million unpaid out of the twenty-three million that it had originally paid in.

MR. PACHMAN:

Mr. Chairman, the IDA is set up as a public benefit corporation, and I'd like to use the term. It puts the property in the name of the IDA as a fictional owner of the property. As that financial owner or nominal owner, they can give certain remedies that they couldn't give to a private operation, like sales tax, mortgage tax and sometimes special interest benefits and things like that.

In certain areas, when it's a tax-free operation or if we get pilots, so that there's no question that the property we get in turn, payments in lieu of taxes. In this case, the property remained on the tax rolls and the full property taxes have been paid and they have been paid to date. So this is still a tax producing real estate operation.

CHAIRMAN BISHOP:

I wish my questions came to my head quicker, so this would flow better,

but if the County were to acquire the property for 3.8 million, is everyone in the deal made whole? Who loses --

MR. MC QUEEN:

The Rochester fund will end up -- if that happened, the Rochester Fund will end up with a net loss of about 3.5 million dollars, in which they would just -- that would be a loss on this investment and that's where things would end.

CHAIRMAN BISHOP:

And they don't sue Mr. Paffendorf at that point?

MR. CURRY:

The entity that developed the property was a single asset entity, so they can sue that entity, but it has no assets. The property alone was guaranteed, there was a completion guarantee by another entity. I presume they'll make some attempt at collecting the money from the other entity.

CHAIRMAN BISHOP:

You have to, it's too lawyerly.

MR. CURRY:

There's, there's a guarantee -- there was not a guarantee of the debt, but there was a completion guarantee, which in essence, once you parse it out, it is a guarantee of the debt and they would just go back to that guarantor and say, pay us the money that we didn't get from the sale of the property. So that entity, which Mr. Paffendorf has an interest in, they'll go after that entity for additional sums of money.

It just brings me back to my point. No one is making out a pot of gold here. Your questions have been valid questions to ask, the discrepancy between the eight hundred thousand and the 3.8 million at closing and the 3.6 million requested now, that money is not going into anybody's pocket other than to pay off outstanding debt.

CHAIRMAN BISHOP:

Yeah, but are they -- no one is making out, but are they mitigating their damages with public money? That's what I'm trying to understand.

MR. CURRY:

Well, when you pay any owner of a piece of property for their property, they're using that money for their purposes. If you're paying an owner of a property who's got a mortgage on it, essentially it's similar to this. You'd be paying that party, they'd be using that money to pay off their mortgage. You wouldn't question the fact that they were using your money to pay off their mortgage if you reached agreement on the purchase price.

CHAIRMAN BISHOP:

If the County does not approve this purchase, what, can anybody speak to what -- well, can you speak to what your client's intentions would be, what would he do?

49

MR. CURRY:

There are other interested parties. How deep their interest is, I really can't say. Whether it could come to anything, I can't say, but -- you may.

MS. NOLAN:

If I can just add to that. The zone on this property, the zoning remains the same as it was in 1995. The property is zoned R-80 in the back portion and the portion along Jericho Turnpike is zoned C-6. So it is commercial property and probably a lot of the value of the property is in that portion.

And I know that there have been inquiries to our Planning Department in recent weeks with regard to that portion along Jericho Turnpike.

MR. CURRY:

You can assure it wouldn't remain fallow. Somebody would buy it, somebody would use it.

CHAIRMAN BISHOP:

Would, who would -- would the IDA -- Counsel is saying wouldn't the IDA foreclose at that point?

MR. MC QUEEN:

Well, it really wouldn't be the IDA. Hopefully it would be the Rochester Fund, the bondholders, they're the ones out the money. They would direct the trustee for the bondholders, which is really their trustee, because they're the sole bondholder. There would be a foreclosure proceeding and they would take the property and then at that point the Rochester Fund would make their best efforts to sell the property to recoup as much as they could to offset their loss, which at this point is 7.2 million dollars.

CHAIRMAN BISHOP:

Why wouldn't you make the best efforts at that point to continue to develop it as a congregate care facility?

MR. MC QUEEN:

Well, the Rochester Fund is, they're in the business of investing in municipal bonds, so they're not in the business of running congregate care. So they would to sell to a developer who might want to do that and try to recoup as much as they could, you know, from the land and then it would be some other developer coming in that would then proceed to, you know, develop the project.

MR. PACHMAN:

Mr. Bishop, as Mr. Ferguson indicated, no state credit, no County credit, no other guarantees are given this. The sole asset that the bank can go against is the property. There's no individual liability over against the state, the County or the IDA. This is purely an asset of single property. Now, I just --

CHAIRMAN BISHOP:

What -- go ahead, I'm sorry.

50

MR. PACHMAN:

I sat here all afternoon fascinated by the work you people do here, but every time you approve a transaction, the money that you're approving is going to an individual private property owner in one form --

CHAIRMAN BISHOP:

You didn't see us approve any transactions.

MR. PACHMAN:

-- or the other, so I don't understand why you raised that question before. Maybe I misunderstood what you said.

CHAIRMAN BISHOP:

You didn't see us approve any transactions today. All we did were approve investigations and planning steps.

MR. PACHMAN:

But those transactions, if they are approved, the money or the financing that's going to be done to pay for that, sometimes it's part of County money, some parts it's tax credits or sales tax, it's money that belongs to the County that you are paying ultimately to a private owner.

CHAIRMAN BISHOP:

Correct.

MR. PACHMAN:

I didn't understand that.

CHAIRMAN BISHOP:

Right. But what we don't want to do is get into situations where government is taking discretionary actions that enhance the value of property and then changing its position and we're asked to buy the property at inflated prices.

MR. PACHMAN:

I understood.

CHAIRMAN BISHOP:

And that's what we're driving at.

MR. MC QUEEN:

Right. The IDA didn't have anything to do with the granting of the special-use permit, which is really the key governmental approval that enabled this project to go forward.

CHAIRMAN BISHOP:

Right. But -- right. That's what the testimony is today, but we didn't know that before today. And it's still, I wonder if -- how viable the project would have been without the IDA's assistance. Probably not viable at all, right?

Also, why is the owner willing to sell at this point?

MR. CURRY:

The project hasn't been what he expected it to be.

51

CHAIRMAN BISHOP:

Because the business --

MR. CURRY:

He intended to build --

CHAIRMAN BISHOP:

Because the business hasn't, the industry as a whole is not doing what it's supposed to do, is that not correct?

MR. CURRY:

If he had built it at the time that he intended to build it, it would have been a very successful project. It was -- I can go through the litany of things that happened with the DEC between the time he put his application in to them and the time they considered it and the time they held several more hearings and the time they finally came to give their approval, but that changed the economics, it changed the willingness to do the project.

Be that as it may, that really doesn't have anything to do with, I mean, that's maybe why he wishes to sell it, but it has no effect on property value.

CHAIRMAN BISHOP:

The economics of health care has changed because you got put through the DEC ringer, that took you years, and you came out of the ringer, it was a very different world for that business. Is that --

MR. CURRY:

Notwithstanding that, I just finished doing one IDA project for an assisted living facility and I have another one that will close before the end of the year. There are assisted living facilities being built, this is still a great location for an assisted living facility. It's not as if there aren't people who are getting them done, there are, but he has chosen that it won't be him.

MR. MC QUEEN:

Right. And the other point to keep in mind is because these bonds are in default, at this point the control has shifted from the borrower back to the bondholder. It really is, it's the bondholder that's in control now.

CHAIRMAN BISHOP:

That's you?

MR. MC QUEEN:

Well, we were bond counsel, but the Rochester Fund that bought the bonds, they're in the driver's seat now. You know, as happens in any default situation, when there's a default, then the lender is in control, the borrower, you know, doesn't really, doesn't have many rights left.

CHAIRMAN BISHOP:

Okay. But we can still negotiate with Paffendorf even if the --

MR. CURRY:

Yes.

52

CHAIRMAN BISHOP:

-- there's not an agreement?

MR. CURRY:

Well, John doesn't represent the Rochester Fund.

CHAIRMAN BISHOP:

No, right.

John represents the agency. I've been dealing with the Rochester Fund and we're here to do the negotiating.

CHAIRMAN BISHOP:

Oh, okay. So you have both the -- so it's both in the lender's and the borrower's interests to have the County purchase it, that's your instructions at least, is to facilitate the County purchase.

MR. CURRY:

That we're willing to entertain a County offer, yes, the County and the town offer.

CHAIRMAN BISHOP:

Okay. Mr. Caracciolo?

LEG. CARACCIOLO:

Mr. Chairman, I'd like to address the issue of partnership. Normally in the, around this horseshoe a partnership is something on the order of 50-50 or thereabouts. In this instance, the County is, the request is for the County to contribute seventy-eight percent of the potential acquisition cost. How is this formula derived?

MS. NOLAN:

The Town has a limited amount of funding for these kinds of programs. We have ten million dollars to spend over ten years. We've participated in other County programs at different levels. The acquisition of the Knolls was an eight million dollar acquisition, the Town paid 1.5 million. There are others, there's another one that is upcoming where we are paying fifty percent, but the fifty percent only amounts to seven hundred thousand.

The eight hundred thousand dollar figure was, originally came up several years ago when there were discussions about acquisition and based on an earlier appraisal before I believe the IDA got involved. The total price was allegedly, the appraisal was 1.6 million dollars and at that point the Town had agreed to eight hundred thousand and I believe that the, at that point the program was being, the program that the County was using was the Land Preservation Partnership, which is a 50/50 program.

When the price went up, the acquisition I believe today is coming out of the quarter percent pay-as-you-go taxpayer protection program, which does not require a fifty percent match. And while the Town is still willing to put up its eight hundred thousand, we have a lower appraisal than the County and at this point are not willing to put any more into it.

LEG. CARACCIOLO:

Do you recall when that 1.6 million dollar appraisal was done?

53

MS. NOLAN:

I believe that was in 19 -- I think it was either in, in 1999.

LEG. CARACCIOLO:

So that would have been after the Town granted its special use --

MS. NOLAN:

Correct.

LEG. CARACCIOLO:

Designation or permit. Was it a permit?

MS. NOLAN:

The permit, the special-use permit is a permit, correct.

LEG. CARACCIOLO:

And that allows what, if you can just --

MS. NOLAN:

If you meet certain -- the -- if the meet certain conditions and you go to the Zoning Board of Appeals, then you have a right to request a special permit. In this case, a congregate care facility permit.

LEG. CARACCIOLO:

To do something other than would normally be allowed to be constructed on that property?

MS. NOLAN:

Not so much something that would be different, but for these particular kinds of facilities you need a special-use permit. So it doesn't necessarily go with the property, it's the criteria goes with the congregate care facility. And if you meet certain criteria, then you have the right to request such a permit from the Zoning Board of Appeals.

LEG. CARACCIOLO:

Okay.

CHAIRMAN BISHOP:

But the appraisal is based on the use?

MS. NOLAN:

The original town appraisal?

CHAIRMAN BISHOP:

Whichever appraisal.

LEG. CARACCIOLO:

This '99 appraisal of 1.6, that took into consideration highest and best use and the fact that the Town had already granted a special-use permit?

MS. NOLAN:

I believe so, but I would have to check that.

LEG. CARACCIOLO:

Okay. Do you have copies of that appraisal?

MS. NOLAN:

Yes, I'm sure we do.

LEG. CARACCIOLO:

Okay. Thank you.

CHAIRMAN BISHOP:

Any further questions? Okay. Thank you all. I appreciate your patience. We tried to accommodate at the son of Smithtown. I hope you appreciate that fact, Legislator Crecca.

MR. FERGUSON:

Thank you.

CHAIRMAN BISHOP:

All right. This is the last remaining item on the agenda. I think I have cards. Are there members of the public that wish to be heard on this?

MR. WALTER:

Yes.

CHAIRMAN BISHOP:

Please come on up. You were here last time?

MR. WALTER:

Yes, I was here last time.

CHAIRMAN BISHOP:

And you, did you write me?

MR. WALTER:

Yes. I did write you a letter thanking you for listening to us all. And I'll try to be brief today and not go through -- I appreciate it. My name is William Walter. I live at, in the West Hills area of Huntington. And I did thank you for letting us present our testimony at the last hearing.

I think that you've heard now the financial machinations of this, of what's happened to the parcel and realized that I guess there isn't a bundle of money to be made, but I hope that what you get from listening to this is that we have a window of opportunity to acquire a very sensitive parcel.

And I'd like to spend just two minutes summarizing that, that this parcel is not just a piece of vacant land that happened to have a congregate care facility projected for it and nearby residents didn't want it and it became a nimbi thing, this parcel contains one of four, only four class one freshwater wetlands in the Huntington Quadrangle. This land of ten acres is over the deep recharge area of our drinking water. This land is a habitat, it supports many unique species and it is a very environmentally sensitive property.

You heard the Superintendent of Schools of the South Huntington School

District tell you at the last meeting that he would incorporate this property as a living laboratory into the school program of the South

55

Huntington School District. So it is on all accounts -- also the Open Space Committee for the Town of Huntington placed this in the top category of lands to be acquired in Huntington.

This parcel is a very important acquisition for the Town of Huntington and we urge that you use the quarter percent program to acquire it. Now, Huntington, as you've been told has never put in its open space acquisitions more than a million dollars, I was told this morning by Margo Miles, into any specific acquisition so that they could spread the ten million dollars over the ten year period around the Town of Huntington. And that's why it will be very difficult for the Town of Huntington to come up with half of the 3.8 million dollars, 3.6 million dollars that the property owner is willing to sell this property at now.

And you've heard it's taken now five years for the owner to become a willing seller. This has been a sensitive property that we've been trying to acquire for all of that time. A special-use permit unfortunately was on the Code all of that while, it was simply a checklist, and a Court of Appeals has apparently ruled in the special-use process that if you have in this case five acres, frontage on a major road, have an agreement with a nursing home and a few other conditions, then that, that special use must be granted. Unfortunately, that was the case.

We opposed it at the time, but the Zoning Board of Appeals felt that there was no way that they could turn it down because of the prior court cases that treat this as an owner's right if he satisfies the requirements that are in the Code. So as unfortunate that that happened, but we have a unique window now, we know that there are other congregate care owners that are interested in acquiring this project, parcel and building a program there.

The DEC application was for an access road that would go through the wetlands. The way the DEC configured it, they configured it as two ponds and putting a road between the ponds. Actually, the wetlands encompass more than just those two ponds and the construction activities would decimate that wetland.

They were going to take out twenty-two thousand cubic yards of fill to flatten it, because this is a very hill and valley, it's a land that shows you the topography with the terminal moraines of both the, both terminal moraines crossing this area.

So I would like to encourage this Committee to approve the resolution and send this on to the Legislature for its approval while we have this

unique opportunity to acquire this special parcel.

CHAIRMAN BISHOP:

Thank you, sir. And no questions, right?

I have questions for our Real Estate Division, maybe they can assist me with something. I have more questions, as I said. For real estate, my questions go to the nature of the appraisal process. When a parcel is appraised with a special-use permit, is the use of the property considered in the appraisal? So if I have ten acres that's zoned commercial versus ten acres that's zoned commercial with a special-use

56

permit for adult entertainment, is one going to come out to a different number than the other, is one appraisal going to --

MS. COSTIGAN:

The appraiser makes a study of whether there are any outstanding permits for the property. For instance, whether it has a subdivision approved.

CHAIRMAN BISHOP:

Right.

MS. COSTIGAN:

And that will affect the value.

CHAIRMAN BISHOP:

Okay. So having --

MS. COSTIGAN:

So standing permits and --

CHAIRMAN BISHOP:

So the fact that this parcel has that permit or that, that boosts the value of the parcel as compared to if it didn't?

MS. COSTIGAN:

Assuming that that's what the appraiser determines is the highest and best use for the property.

CHAIRMAN BISHOP:

Okay. The next question is, is a special-use permit held, does it run with the land or is it held by the developer? How does that work?

MS. COSTIGAN:

You can transfer special-use permits so they run with the land. I mean they're not, they're not unique to the applicant, they can be assigned.

CHAIRMAN BISHOP:

You mean they go in --

MR. SABATINO:

I think they have time limits on them. They expire if they're not -- if you don't file a building permit within a certain period after the, after the use variance is granted, then it expires, it's gone.

MS. COSTIGAN:

It does have limitations, but it can be transferred.

MR. BURKE:

Those issues usually run from town to town. Each town treats special-use permits different, you know, so each code is different. So Huntington might have some, the way they treat special-use permits and Babylon will have a different way, so you'd have to -- and each, sometimes each case can be different, as the Legislative Counsel pointed out.

You can put a time limit on it and that can, some time limits can vary also depending on the grant.

57

MS. COSTIGAN:

But your specific question as to whether it runs with the land or with the applicant, it's a, it's a permit that's affixed to the land. Lots of people get the permits and then sell them, sell the right to use it.

CHAIRMAN BISHOP:

In the Town of Huntington, is there anything that I, do you know the specifics?

MS. NOLAN:

I'm not aware if there's any expiration date on that permit.

MR. CURRY:

They requested extensions and obtained them. So the special-use permit to my understanding is still in full force and effect. They got an extension as it expired, before it expired.

CHAIRMAN BISHOP:

So what is the -- does anybody know what the criteria generally is to extinguish a special-use permit, once granted the town has no discretion to extinguish it?

MS. NOLAN:

No. I think if, if, if the permit runs out, the applicant has to come into the ZBA for an extension. If he is not granted the extension, it ends, but he can --

CHAIRMAN BISHOP:

Right. I mean, but it's an automatic extension, in other words they just have to pay fifty dollars or something for the filing for an extension?

MS. NOLAN:

It's not automatic, but I think unless, I think that if you can show reasonable grounds for it, that it would be granted.

MR. CURRY:

The same criteria that you would have to use for granting the special-use permit, initially it would be very difficult to say they would not extend it if the developer would be able to show the circumstances of why he wasn't able to build. If you approved it in the first place, it would be very difficult to say that you shouldn't extend it.

CHAIRMAN BISHOP:

Mr. Walter wants to say something.

MR. WALTER:

May I say in this case the special use has been extended each year. And generally in December of each year, the Zoning Board passes a resolution extending it for another year. And that has been customary in the Zoning Board for all of the special uses.

And indeed, another thing that holds here is that when an applicant gets a special-use permit and is unable to apply for the building permit because he has to go before the DEC or because there's a Court involvement or something like that, I believe the law holds that the

58

building, the special use should not expire because of that, that sort of automatically extends it through all of that process, so the applicant has an adequate time to perfect his application and apply for a building permit.

CHAIRMAN BISHOP:

Thank you.

MR. SABATINO:

The only point I was going to make is that there generally is an expiration period. The extensions may have been granted because other thing were pending, but if those issues have all been resolved and no building permit has been filed, this special permit is gone. I mean, but you have to see the documents to see what the time lines would be, but there's no way the special permit would go on infinitum. That's not the way the system works.

CHAIRMAN BISHOP:

Now, regarding public disclosure of appraisal amounts, what is our

policy?

MR. SABATINO:

Well, our new policy is that you can discuss it in open, because you have to on those occasion when you want to vote to go above appraised values, so what you decided earlier this year was that you wanted to do it in an open and transparent way. And, quite frankly, you're going to have to in those cases in which you're dealing with going above appraised value.

In the cases where you're not going above appraised value, you can handle it either way, but you -- the sense I got from that discussion that took place earlier in the year is that, you know, let it all hang out.

CHAIRMAN BISHOP:

Well, as a government in New York State, we're not allowed to pay more than appraised value without discussing on the record our rationale, and even then, it's within confined limits.

Is the -- what appraisals do we currently have on this property that we're working with ?

MS. COSTIGAN:

Our appraisal is almost a year old, it's over four million dollars, 4.2.

LEG. CARACCIOLO:

And the Town appraisal?

MS. NOLAN:

The Town appraisal is from I believe January of this year and I don't think I'm covered by your rules, but I believe the Town, I'll give you the Town appraisal, it's 3.2 million, is my understand , 3.2 or 3.3.

CHAIRMAN BISHOP:

Well, it is an art, not a science.

LEG. FIELDS:

When was our appraisal done?

59

MS. COSTIGAN:

About a year ago, end of last summer.

LEG. FIELDS:

Who did our appraisal?

CHAIRMAN BISHOP:

Mr. Paffendorf.

MS. COSTIGAN:

I'm sorry, I didn't hear you.

LEG. FIELDS:

Who did our appraisal?

MS. COSTIGAN:

I can't recall.

LEG. FIELDS:

You don't have that?

MS. COSTIGAN:

No.

CHAIRMAN BISHOP:

Do either of the appraisals give me information on what the enhanced value for holding the special-use permit is? I'm very interested in that question, because that is a policy line that I believe this committee has drawn, I know I certainly have drawn it, that I do not want to be in the position of spending public resources to, on properties which have been enhanced by discretionary value.

So, for example, in this case if I know that without the special-use permit this property would be worth two million, but with the special-use permit it's worth four million, I would say that I'm willing to partner with the Town of Huntington up to the two million dollar number, and if they want to pursue it for the four million dollar, it would come from them, from the Town. So that's what I think is the beginning, I hope, of some sort of reasonable compromise and reasonable compromise that could facilitate this purpose, purchase.

MS. NOLAN:

Can I just say on that issue, though, from the Town's perspective, this application first came to them in 1996, at that point there was no talk of anybody acquiring the property.

CHAIRMAN BISHOP:

Right.

MS. NOLAN:

And a special-use permit was issued in November of 1998, again there was no talk of anybody acquiring this property.

CHAIRMAN BISHOP:

You may have innocently crossed that line, but it's one that because of bad actors that we have seen in the past draw, because we do not want to

if --

MS. NOLAN:

I can understand that, but as Mr. --

CHAIRMAN BISHOP:

So -- but if the special value, if the special use is only worth three hundred thousand dollars to the appraised value, then that's all I would be asking that Huntington contribute above what it's willing to contribute now. If it's two million, then I would be asking two million. And I'm only one vote, I mean perhaps I'll be outvoted. But that's -- what I'd like to know, I mean we don't have any way of knowing that at this time, that's correct.

MS. COSTIGAN:

We do not. The appraisal is extensive and complete and should be, you know, it's one of those things you should read as a whole if you want to know any particular aspect.

CHAIRMAN BISHOP:

You've read a lot more appraisals in your life than I have, is it going to be in there, what I'm looking for or probably not, right, you'd have to go back --

MR. BURKE:

You'd have to go back and look at it to make reference.

MS. COSTIGAN:

Yes, I'm sorry.

LEG. CARACCIOLO:

Mr. Chairman, I'd like to request a copy of the appraisals from both the Town and the County.

CHAIRMAN BISHOP:

Okay.

LEG. CARACCIOLO:

And I'm going to make a motion to table this resolution.

LEG. FIELDS:

I'll second.

CHAIRMAN BISHOP:

I'll agree to the tabling, but I -- to those who support it, like Mr. Walter, it's not a dead issue. I think that if we can, well, from my perspective if we can ascertain the value of the special-use permit, what it does to the value of the property, then we can begin to discuss how we can solve this dilemma.

MS. COSTIGAN:

Would you like us to send a copy to you, Mr. Bishop, to circulate or --

CHAIRMAN BISHOP:

Why don't we bring it to the next committee meeting.

61

LEG. FIELDS:

No, no, no.

LEG. CARACCIOLO:

Before.

CHAIRMAN BISHOP:

You want it before?

LEG. FIELDS:

Yes. Can we all have a copy?

CHAIRMAN BISHOP:

Can you E-mail it?

MS. COSTIGAN:

It's this thick.

CHAIRMAN BISHOP:

They're gigantic documents.

MS. COSTIGAN:

It's substantial, with pictures and all that.

CHAIRMAN BISHOP:

I don't know. Perhaps --

MS. COSTIGAN:

I'll do it somehow.

CHAIRMAN BISHOP:

-- perhaps you can get one copy to the Clerk of the Legislature and we'll take it from there.

MS. COSTIGAN:

Very good.

MS. NOLAN:

I will discuss it with the attorney who handles the negotiations for the Town and maybe have him contact Paul and decide how the best way is for him to get it to you.

CHAIRMAN BISHOP:

Okay.

LEG. CARACCIOLO:

Additional request, Mr. Chairman. I'd like a copy of the 1999 Town appraisal.

MS. NOLAN:

The earlier town appraisal.

LEG. CARACCIOLO:

Right.

62

CHAIRMAN BISHOP:

All right. Okay. I think that concludes our business today.

Motion to table by Legislator Caracciolo, seconded by Legislator Fields.

All in favor? Opposed? The resolution is tabled.

(VOTE: 4-0-0-1) (Absent: Crecca) TABLED

CHAIRMAN BISHOP:

Motion to adjourn by myself, seconded by Legislator Cooper. All in favor? Opposed? We stand adjourned.

(THE MEETING WAS ADJOURNED AT 5:05 P.M.)

{ } DENOTES BEING SPELLED PHONETICALLY

63